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# federal register

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Wednesday  
June 17, 1992

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October 16, 1912

Received of  
the Treasurer  
of the  
Board of  
Education  
the sum of  
\$100.00  
for  
the year  
1912-13

Witness my hand  
this 10th day of  
October 1912  
at New York City  
John J. [Signature]



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Wednesday  
June 17, 1992

# Testis at register





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**Title 3—****The President****Proclamation 6445 of June 15, 1992****Agreement on Trade Relations Between the United States of America and the Republic of Albania****By the President of the United States of America****A Proclamation**

1. Pursuant to the authority vested in me by the Constitution and the laws of the United States, as President of the United States of America, I, acting through duly empowered representatives, entered into negotiations with representatives of Albania to conclude an agreement on trade relations between the United States of America and Albania.

2. These negotiations were conducted in accordance with the requirements of the Trade Act of 1974 (Public Law 93-618, January 3, 1975; 88 Stat. 1978), as amended (the "Trade Act").

3. As a result of these negotiations, an "Agreement on Trade Relations Between the United States of America and the Republic of Albania," including exchanges of letters which form an integral part of the Agreement, the foregoing in English and Albanian, was signed on May 14, 1992, by duly empowered representatives of the two Governments and is set forth as an annex to this proclamation.

4. This Agreement conforms to the requirements relating to bilateral commercial agreements set forth in section 405(b) of the Trade Act (19 U.S.C. 2435(b)).

5. Article XVII of the Agreement provides that the Agreement shall enter into force on the date of exchange of written notices of acceptance by the two Governments.

6. Section 405(c) of the Trade Act (19 U.S.C. 2435(c)) provides that a bilateral commercial agreement providing nondiscriminatory treatment to the products of a country heretofore denied such treatment, and a proclamation implementing such agreement, shall take effect only if approved by the Congress under the provisions of that Act.

7. Section 604 of the Trade Act (19 U.S.C. 2483) authorizes the President to embody in the Harmonized Tariff Schedule of the United States the substance of the provisions of that Act, of other acts affecting import treatment, and actions taken thereunder.

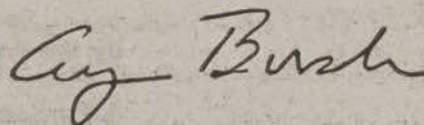
NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States, including but not limited to sections 404, 405, and 604 of the Trade Act of 1974, as amended, do proclaim that:

(1) This proclamation shall become effective, said Agreement shall enter into force, and nondiscriminatory treatment shall be extended to the products of Albania, in accordance with the terms of said Agreement, on the date of exchange of written notices of acceptance in accordance with Article XVII of said Agreement. The United States Trade Representative shall publish notice of the effective date in the Federal Register.



(2) Effective with respect to articles entered, or withdrawn from warehouse for consumption, into the customs territory of the United States on or after the date provided in paragraph (1) of this proclamation, general note 3(b) of the Harmonized Tariff Schedule of the United States, enumerating those countries whose products are subject to duty at the rates set forth in rate of duty column 2 of the tariff schedule, is modified by striking out "Albania".

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of June, in the year of our Lord nineteen hundred and ninety-two, and of the Independence of the United States of America the two hundred and sixteenth.



Billing code 3195-01-M



AGREEMENT ON TRADE RELATIONS  
BETWEEN THE UNITED STATES OF AMERICA  
AND THE REPUBLIC OF ALBANIA

The United States of America and the Republic of Albania (hereinafter referred to collectively as "Parties" and individually as "Party"),

Affirming that the evolution of market-based economic institutions and the strengthening of the private sector will aid the development of mutually beneficial trade relations,

Acknowledging that the development of trade relations and direct contact between nationals and companies of both Parties will promote openness and mutual understanding,

Considering that expanded trade relations between the Parties will contribute to the general well-being of the peoples of each Party,



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Recognizing that development of bilateral trade may contribute to better mutual understanding and cooperation and promote respect for internationally recognized worker rights,

Taking into account Albania's membership in the International Monetary Fund and the International Bank for Reconstruction and Development and the prospects for economic reform and restructuring of the economy,

Having agreed that economic ties are an important and necessary element in the strengthening of their bilateral relations,

Being convinced that an agreement on trade relations between the two Parties will best serve their mutual interests, and

Desiring to create a framework which will foster the development and expansion of commercial ties between their respective nationals and companies,



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Have agreed as follows:

#### ARTICLE I

##### MOST FAVORED NATION AND NONDISCRIMINATORY TREATMENT

1. Each Party shall accord unconditionally to products originating in or exported to the territory of the other Party treatment no less favorable than that accorded to like products originating in or exported to the territory of any third country in all matters relating to:

(a) customs duties and charges of any kind imposed on or in connection with importation or exportation, including the method of levying such duties and charges;

(b) methods of payment for imports and exports, and the international transfer of such payments;

(c) rules and formalities in connection with importation and exportation, including those relating to customs clearance, transit, warehouses and transshipment;

(d) taxes and other internal charges of any kind applied directly or indirectly to imported products; and

(e) laws, regulations and requirements affecting the sale, offering for sale, purchase, transportation, distribution, storage and use of products in the domestic market.

2. Each Party shall accord to products originating in or exported to the territory of the other Party



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nondiscriminatory treatment with respect to the application of quantitative restrictions and the granting of licenses.

3. Each Party shall accord to imports of products and services originating in the territory of the other Party nondiscriminatory treatment with respect to the allocation of and access to the currency needed to pay for such imports.

4. The provisions of paragraphs 1 and 2 shall not apply to:

(a) advantages accorded by either Party by virtue of such Party's full membership in a customs union or free trade area;

(b) advantages accorded to adjacent countries for the facilitation of frontier traffic;

(c) actions by either Party which are required or permitted by the General Agreement on Tariffs and Trade (the "GATT") (or by any joint action or decision of the Contracting Parties to the GATT) during such time as such Party is a Contracting Party to the GATT and special advantages accorded by virtue of the GATT; and

(d) actions taken under Article XI (Market Disruption) of this Agreement.

5. The provisions of paragraph 2 of this Article shall not apply to Albanian exports of textiles and textile products.



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## ARTICLE II

## MARKET ACCESS FOR PRODUCTS AND SERVICES

1. Each Party shall administer all tariff and nontariff measures affecting trade in a manner which affords, with respect to both third country and domestic competitors, meaningful competitive opportunities for products and services of the other Party.
2. Accordingly, neither Party shall impose, directly or indirectly, on the products of the other Party imported into its territory, internal taxes or charges of any kind in excess of those applied, directly or indirectly, to like domestic products.
3. Each Party shall accord to products originating in the territory of the other Party treatment no less favorable than that accorded to like domestic products in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution, storage or use.
4. The charges and measures described in paragraphs 2 and 3 of this Article should not be applied to imported or domestic products so as to afford protection to domestic production.
5. The Parties shall ensure that technical regulations and standards are not prepared, adopted or applied with a view to creating obstacles to international trade or to protect domestic production. Furthermore, each



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Party shall accord products imported from the territory of the other Party treatment no less favorable than that accorded to like domestic products and to like products originating in any third country in relation to such technical regulations or standards, including conformity testing and certification.

6. The Government of the Republic of Albania shall accede to the Convention Establishing the Customs Cooperation Council and the International Convention on the Harmonized Commodity Description and Coding System, and shall take all necessary measures to implement entry into force of such Conventions with respect to the Republic of Albania. The United States of America shall endeavor to provide technical assistance, as appropriate, for the implementation of such measures.

## ARTICLE III

## GENERAL OBLIGATIONS WITH RESPECT TO TRADE

1. The Parties agree to maintain a satisfactory balance of market access opportunities, including through concessions in trade in products and services and through the satisfactory reciprocation of reductions in tariffs and nontariff barriers to trade resulting from multilateral negotiations.

2. Trade in products and services shall be effected by contracts between nationals and companies of both Parties



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concluded on the basis of nondiscrimination and in the exercise of their independent commercial judgment and on the basis of customary commercial considerations such as price, quality, availability, delivery, and terms of payment.

3. Neither Party shall require or encourage its nationals or companies to engage in barter or countertrade transactions. Nevertheless, where nationals or companies decide to resort to barter or countertrade operations, the Parties will encourage them to furnish to each other all necessary information to facilitate the transaction.

#### ARTICLE IV

##### EXPANSION AND PROMOTION OF TRADE

1. The Parties affirm their desire to expand trade in products and services consistent with the terms of this Agreement. They shall take appropriate measures to encourage and facilitate trade in goods and services and to secure favorable conditions for long-term development of trade relations between their respective nationals and companies.

2. The Parties shall take appropriate measures to encourage the expansion of commercial contacts with a view to increasing trade. In this regard, the Government of the Republic of Albania expects that, during the term of this Agreement, nationals and companies of the Republic of Albania shall increase their orders in the United States for



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products and services, while the United States expects that the effect of this Agreement shall be to encourage increased purchases by nationals and companies of the United States of products and services from the Republic of Albania. Toward this end, the Parties shall publicize this Agreement and ensure that it is made available to all interested parties.

3. Each Party shall encourage and facilitate the holding of trade promotional events such as fairs, exhibitions, missions and seminars in its territory and in the territory of the other Party. Similarly, each Party shall encourage and facilitate the participation of its respective nationals and companies in such events. Subject to the laws in force within their respective territories, the Parties agree to allow the import and re-export on a duty free basis of all articles for use in such events, provided that such articles are not sold or otherwise transferred.

## ARTICLE V

## GOVERNMENT COMMERCIAL OFFICES

1. Subject to its laws and regulations governing foreign missions, each Party shall allow government commercial offices to hire directly host-country nationals and, subject to immigration laws and procedures, third-country nationals.



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2. Each Party shall ensure unhindered access of host-country nationals to government commercial offices of the other Party.

3. Each Party shall encourage the participation of its nationals and companies in the activities of the other Party's government commercial offices, especially with respect to events held on the premise of such commercial offices.

4. Each Party shall encourage and facilitate access by government commercial office personnel of the other Party to host-country officials at both the national and subnational level, and representatives of nationals and companies of the host Party.

## ARTICLE VI

## BUSINESS FACILITATION

1. Each Party shall afford commercial representations of the other Party fair and equitable treatment with respect to the conduct of their operations.

2. Subject to its laws and procedures governing immigration and foreign missions, each Party shall permit the establishment within its territory of commercial representations of nationals and companies of the other Party and shall accord such representations treatment at least as favorable as that accorded to commercial



representations of nationals and companies of third countries.

3. Subject to its laws and procedures governing immigration and foreign missions, each Party shall permit such commercial representations established in its territory to hire directly employees who are nationals of either Party or of third countries and to compensate such employees on terms and in a currency that is mutually agreed between the parties, consistent with such Party's minimum wage laws.

4. Each Party shall permit commercial representations of the other Party to import and use in accordance with normal commercial practices, office and other equipment, such as typewriters, photocopiers, computers and telefax machines in connection with the conduct of their activities in the territory of such Party.

5. Each Party shall permit, on a nondiscriminatory basis and at nondiscriminatory prices (where such prices are set or controlled by the government), commercial representations of the other Party access to and use of office space and living accommodations, whether or not designated for use by foreigners. The terms and conditions of such access and use shall in no event be on a basis less favorable than that accorded to commercial representations of nationals and companies of third countries.

6. Subject to its laws and procedures governing immigration, each Party shall permit nationals and companies



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of the other Party to engage agents, consultants and distributors of either Party and of third countries on prices and terms mutually agreed between the parties.

7. Subject to its immigration laws and procedures, each Party shall permit nationals and companies of the other Party to serve as agents, consultants and distributors of nationals and companies of either Party and of third countries on prices and terms mutually agreed between the parties.

8. Each Party shall permit nationals and companies of the other Party to advertise their products and services (a) through direct agreement with the advertising media, including television, radio, print and billboard, and (b) by direct mail, including the use of enclosed envelopes and cards preaddressed to that national or company.

9. Each Party shall encourage direct contact, and permit direct sales, between nationals and companies of the other Party and end-users and other customers of their goods and services, and with agencies and organizations whose decisions will affect potential sales.

10. Each Party shall permit nationals and companies of the other Party to conduct market studies, either directly or by contract, within its territory. To facilitate the conduct of market research, each Party shall upon request make available non-confidential, non-proprietary information



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within its possession to nationals and companies of the other Party engaged in such efforts.

11. Each Party shall provide nondiscriminatory access to governmentally-provided products and services, including public utilities, to nationals and companies of the other Party in connection with the operation of their commercial representations.

12. Each Party shall permit commercial representations to stock an adequate supply of samples and replacement parts for aftersales service on a non-commercial basis.

13. Neither Party shall impose measures which unreasonably impair contractual or property rights or other interests acquired within its territory by nationals and companies of the other Party.

## ARTICLE VII

## TRANSPARENCY

1. Each Party shall make available publicly on a timely basis all laws and regulations related to commercial activity, including trade, investment, taxation, banking, insurance and other financial services, transport and labor. Each Party shall also make such information available in reading rooms in its own capital and in the capital of the other Party.

2. Each Party shall provide nationals and companies of the other Party with access to available non-confidential,



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non-proprietary data on the national economy and individual sectors, including information on foreign trade.

3. Each Party shall allow the other Party the opportunity to comment on the formulation of rules and regulations which affect the conduct of business activities.

## ARTICLE VIII

FINANCIAL PROVISIONS RELATING TO TRADE  
IN PRODUCTS AND SERVICES

1. Unless otherwise agreed between the parties to individual transactions, all commercial transactions between nationals and companies of the Parties shall be made in United States dollars or any other currency that may be designated from time to time by the International Monetary Fund as being a freely usable currency.

2. Neither Party shall restrict the transfer from its territory of convertible currencies or deposits, or instruments representative thereof, obtained in connection with trade in products and services by nationals and companies of the other Party.

3. Nationals and companies of a Party holding currency of the other Party received in an authorized manner may deposit such currency in financial institutions located in the territory of the other Party and may maintain and use such currency for local expenses.

4. Without derogation from paragraphs 2 or 3 of this Article, in connection with trade in products and services,



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each Party shall grant to nationals and companies of the other Party the better of most-favored-nation or national treatment with respect to:

- (a) opening and maintaining accounts, in both local and foreign currency, and having access to funds deposited, in financial institutions located in the territory of the Party;
- (b) payments, remittances and transfers of convertible currencies, or financial instruments representative thereof, between the territories of the two Parties, as well as between the territory of that Party and that of any third country;
- (c) rates of exchange and related matters, including access to freely usable currencies, such as through currency auctions; and
- (d) the receipt and use of local currency and its use for local expense.

## ARTICLE IX

## PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

1. Each Party shall provide adequate and effective protection and enforcement for patents, trademarks, copyrights, trade secrets, industrial designs and layout designs for integrated circuits. Each Party agrees to adhere to the Paris Convention for the Protection of Industrial Property as revised at Stockholm in 1967, the



Berne Convention for the Protection of Literary and Artistic Works as revised at Paris in 1971, the Universal Copyright Convention of September 6, 1952 as revised at Paris on July 24, 1971, and the Geneva Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of their Phonograms (1971).

2. To provide adequate and effective protection and enforcement of intellectual property rights, each Party shall, inter alia, observe the following commitments:

(a) Copyright and related rights

(i) Each Party shall protect the works listed in Article 2 of the Berne Convention (Paris 1971) and any other works now known or later developed, that embody original expressions within the meaning of the Berne Convention, not limited to the following:

(1) all types of computer programs  
(including application programs and operating systems)  
expressed in any language, whether in source or object code  
which shall be protected as literary works and works created  
by or with the use of computers; and

(2) collections or compilations of protected  
or unprotected material or data whether in print, machine  
readable or any other medium, including data bases, which  
shall be protected if they constitute intellectual creation  
by reason of the selection, coordination, or arrangement of  
their contents.



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(ii) Rights in works protected pursuant to paragraph 2(a)(i) of this Article shall include, inter alia, the following:

(1) the right to import or authorize the importation into the territory of the Party of lawfully made copies of the work as well as the right to prevent the importation into the territory of the Party of copies of the work made without the authorization of the right-holder;

(2) the right to make the first public distribution of the original or each authorized copy of a work by sale, rental, or otherwise; and

(3) the right to make a public communication of a work (e.g., to perform, display, project, exhibit, broadcast, transmit, or retransmit a work); the term "public" shall include:

(A) communicating a work in a place open to the public or at any place where a substantial number of persons outside of a normal circle of a family and its social acquaintances is gathered; or

(B) communicating or transmitting a work, a performance, or a display of a work, in any form, or by means of any device or process to a place specified in clause 2(a)(ii)(3)(A) or to the public, regardless of whether the members of the public capable of receiving such communications can receive them in the same place or separate places and at the same time or at different times.



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(iii) Each Party shall extend the protection afforded under paragraph 2(a)(ii) of this Article to authors of the other Party, whether they are natural persons or, where the other Party's domestic law so provides, companies and to their successors in title.

(iv) Each Party shall permit protected rights under paragraph 2(a)(ii) of this Article to be freely and separately exploitable and transferable. Each Party shall also permit assignees and exclusive licensees to enjoy all rights of their assignors and licensors acquired through voluntary agreements, and be entitled to enjoy and exercise their acquired exclusive rights.

(v) In cases where a Party measures the term of protection of a work from other than the life of the author, the term of protection shall be no less than 50 years from authorized publication, or, failing such authorized publication within 50 years from the making of the work, 50 years after the making.

(vi) Each Party shall confine any limitations or exceptions to the rights provided under paragraph 2(a)(ii) of this Article (including any limitations or exceptions that restrict such rights to "public" activity) to clearly and carefully defined special cases which do not impair an actual or potential market for or the value of a protected work.



(vii) Each Party shall ensure that any compulsory or non-voluntary license (or any restriction of exclusive rights to a right of remuneration) shall provide means to ensure payment and remittance of royalties at a level consistent with what would be negotiated on a voluntary basis.

(viii) Each Party shall, at a minimum, extend to producers of sound recordings the exclusive rights to do or to authorize the following:

(1) to reproduce the recording by any means or process, in whole or in part; and

(2) to exercise the importation and exclusive distribution and rental rights provided in paragraphs 2(a)(ii)(1) and (2) of this Article.

(ix) Paragraphs 2(a)(iii), 2(a)(iv) and 2(a)(vi) of this Article shall apply mutatis mutandis to sound recordings.

(x) Each Party shall:

(1) protect sound recordings for a term of at least 50 years from publication; and

(2) grant the right to make the first public distribution of the original or each authorized sound recording by sale, rental, or otherwise except that the first sale of the original or such sound recording shall not exhaust the rental or importation right therein (the "rental right" shall mean the right to authorize or prohibit the



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disposal of the possession of the original or copies for direct or indirect commercial advantage).

(xi) Parties shall not subject the acquisition and validity of intellectual property rights in sound recordings to any formalities, and protection shall arise automatically upon creation of the sound recording.

(b) Trademarks

(i) Protectable Subject Matter

(1) Trademarks shall consist of at least any sign, words, including personal names, designs, letters, numerals, colors, the shape of goods or of their packaging, provided that the mark is capable of distinguishing the goods or services of one national or company from those of other nationals or companies.

(2) The term "trademark" shall include service marks, collective and certification marks.

(ii) Acquisition of Rights

(1) A trademark right may be acquired by registration or by use. Each Party shall provide a system for the registration of trademarks. Use of a trademark may be required as a prerequisite for registration.

(2) Each Party shall publish each trademark either before it is registered or promptly after it is registered and shall afford other parties a reasonable opportunity to petition to cancel the registration. In



addition, each Party may afford an opportunity for the other Party to oppose the registration of a trademark.

(3) The nature of the goods or services to which a trademark is to be applied shall in no case form an obstacle to registration of the trademark.

(iii) Rights Conferred

(1) The owner of a registered trademark shall have exclusive rights therein. He shall be entitled to prevent all third parties not having his consent from using in commerce identical or similar signs for goods or services which are identical or similar to those in respect of which the trademark is protected, where such use would result in a likelihood of confusion.

(2) Each Party shall refuse to register or shall cancel the registration and prohibit use of a trademark likely to cause confusion with a trademark of another which is considered to be well-known. A Party may not require that the reputation of the trademark extend beyond the sector of the public which normally deals with the relevant goods or services.

(3) The owner of a trademark shall be entitled to take action against any unauthorized use which constitutes an act of unfair competition or passing off.

(iv) Term of Protection

The registration of a trademark shall be indefinitely renewable for terms of no less than 10 years



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when conditions for renewal have been met. Initial registration of a trademark shall be for a term of at least 10 years.

(v) Requirement of Use

(1) If use of a registered mark is required to maintain trademark rights, the registration may be cancelled only after an uninterrupted period of at least two years of non-use, unless legitimate reasons for non-use exist. Use of the trademark with the consent of the owner shall be recognized as use of the trademark for the purpose of maintaining the registration.

(2) Legitimate reasons for non-use shall include non-use due to circumstances arising independently of the will of the trademark holder (such as import restrictions on or other government requirements for products protected by the trademark) which constitute an obstacle to the use of the mark.

(vi) Other Requirements

The use of a trademark in commerce shall not be encumbered by special requirements, such as use which reduces the function of a trademark as an indication of source or use with another trademark.

(vii) Compulsory Licensing

Compulsory licensing of trademarks shall not be permitted.



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## (viii) Transfer

Trademark registrations may be transferred.

## (c) Patents

## (i) Patentable Subject Matter

(1) Patents shall be available for all inventions, whether they concern products or processes, in all fields of technology.

(2) Parties may exclude from patentability any invention or discovery which is useful solely in the utilization of special nuclear material or atomic energy in an atomic weapon.

## (ii) Rights Conferred

(1) A patent shall confer the right to prevent others not having the patent owner's consent from making, using, or selling the subject matter of the patent. In the case of a patented process, the patent confers the right to prevent others not having consent from using that process and from using, selling, or importing at least the product obtained directly by that process.

(2) Where the subject matter of a patent is a process for obtaining a product, each Party shall provide that the burden of establishing that an alleged infringing product was not made by the process shall be on the alleged infringer at least in one of the following situations:

(A) the product is new, or



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(B) a substantial likelihood exists that the product was made by the process and the patent owner has been unable through reasonable efforts to determine the process actually used.

In gathering and evaluation of evidence to the contrary, the legitimate interests of the defendant in protecting his manufacturing and business secrets shall be taken into account.

(3) A patent may only be revoked on grounds that would have justified a refusal to grant the patent.

(iii) Exceptions

Each Party may provide limited exceptions to the exclusive rights conferred by a patent, such as for acts done for experimental purposes, provided that the exceptions do not significantly prejudice the economic interests of the right-holder.

(iv) Term of Protection

Each Party shall provide a term of protection of at least 20 years from the date of filing of the patent application or 17 years from the date of grant of the patent. Each Party is encouraged to extend the term of patent protection, in appropriate cases, to compensate for delays caused by regulatory approval processes.

(v) Transitional Protection

A Party shall provide transitional protection for chemical products, including pharmaceuticals and



agricultural chemicals, for which it did not provide product patent protection prior to its implementation of this Agreement, provided the following conditions are satisfied:

(1) the subject matter to which the product relates will become patentable after implementation of this Agreement;

(2) the product is subject to premarket regulatory review in the territory of the other Party and a patent has been issued for the product by the other Party or an application is pending for the product with the other Party prior to the date on which the subject matter to which the product relates becomes patentable in the territory of the Party providing transitional protection; and

(3) the product has not been marketed in the territory of the Party providing such transitional protection.

The owner of a patent or of a pending application for a product satisfying the conditions set forth above shall have the right to submit a copy of the patent or provide notification of the existence of a pending application with the other Party, to the Party providing transitional protection. These submissions and notifications shall take place any time after the implementation of the new Albanian patent law, and Albanian authorities shall accept such submissions for a period of no less than 1 year from the date of implementation of the law. In the case of



a pending application, the applicant shall notify the competent Albanian authorities of the issuance of a patent based on his application within six months of the date of grant by the other Party. The Party providing transitional protection shall limit the right to make, use, or sell the product in its territory to such owner for a term to expire with that of the patent submitted. Such protection may be implemented through a confirmation patent system.

(vi) Compulsory Licenses

(1) Each Party may limit the patent owner's exclusive rights through compulsory licenses but only:

(A) to remedy an adjudicated complaint based on competition laws;

(B) to address, only during its existence, a declared national emergency; and

(C) to enable compliance with national air pollutant standards, where compulsory licenses are essential to such compliance.

(2) Where the law of a Party allows for the grant of compulsory licenses, such licenses shall be granted in a manner which minimizes distortions of trade, and the following provisions shall be respected:

(A) Compulsory licenses shall be non-exclusive and non-assignable except with that part of the enterprise or goodwill which exploits such license.

(B) The payment of remuneration to the



patent owner adequate to compensate the patent owner fully for the license shall be required, except for compulsory licenses to remedy adjudicated violations of competition law.

(C) Each case involving the possible grant of a compulsory license shall be considered on its individual merits.

(D) Any compulsory license shall be revoked when the circumstances which led to its granting cease to exist, taking into account the legitimate interests of the patent owner and of the licensee. The continued existence of these circumstances shall be reviewed upon request of the patent owner.

(E) Judicial review shall be available for:

(1) decisions to grant compulsory licenses, except in the instance of a declared national emergency,

(2) decisions to continue compulsory licenses, and

(3) the compensation provided for compulsory licenses.

(d) Layout-Designs of Semiconductor Chips

(i) Subject Matter for Protection

(1) Each Party shall provide protection for original layout-designs incorporated in a semiconductor



chip, however the layout-design might be fixed or encoded.

(2) Each Party may condition protection on fixation or registration of the layout-designs. If registration is required, applicants shall be given at least two years from first commercial exploitation of the layout-design in which to apply. A Party which requires deposits of identifying material or other material related to the layout-design shall not require applicants to disclose confidential or proprietary information unless it is essential to allow identification of the layout-design.

(ii) Rights Acquired

(1) Each Party shall provide to owners of rights in integrated circuit lay-out designs of the other Party the exclusive right to do or to authorize the following:

- (A) to reproduce the layout-design;
- (B) to incorporate the layout-design in a semiconductor chip; and
- (C) to import or distribute a semiconductor chip incorporating the layout-design and products including such chips.

(2) The conditions set out in paragraph (c)(v) of this Article shall apply, mutatis mutandis, to the grant of any compulsory licenses for layout-designs.

(3) Neither Party is required to extend protection to layout-designs that are commonplace in the



industry at the time of their creation or to layout-designs that are exclusively dictated by the functions of the circuit to which they apply.

(4) Each Party may exempt the following from liability under its law:

(A) reproduction of a layout-design for purposes of teaching, analysis, or evaluation in the course of preparation of a layout-design that is itself original;

(B) importation and distribution of semiconductor chips, incorporating a protected layout-design, which were sold by or with the consent of the owner of the layout-design; and

(C) importation or distribution up to the point of notice of a semiconductor chip incorporating a protected layout-design and products incorporating such chips by a person who establishes that he did not know, and had no reasonable grounds to believe, that the layout-design was protected, provided that, with respect to stock on hand or purchased at the time notice is received, such person may import or distribute only such stock but is liable for a reasonable royalty on the sale of each item after notice is received.

(iii) Term of Protection

The term of protection for the lay-out design shall extend for at least ten years from the date of first commercial exploitation or the date of registration of the



design, if required, whichever is earlier.

(e) Acts Contrary to Honest Commercial Practices and the Protection of Trade Secrets

(i) In the course of ensuring effective protection against unfair competition as provided for in Article 10 bis of the Paris Convention, each Party shall provide in its domestic law and practice the legal means for nationals and companies to prevent trade secrets from being disclosed to, acquired by, or used by others without the consent of the trade secret owner in a manner contrary to honest commercial practices insofar as such information:

(1) is not, as a body or in the precise configuration and assembly of its components, generally known or readily ascertainable;

(2) has actual or potential commercial value because it is not generally known or readily ascertainable; and

(3) has been subject to reasonable steps under the circumstances to keep it secret.

(ii) Neither Party shall limit the duration of protection for trade secrets so long as the conditions in paragraph 2(e)(i) of this Article exist.

(iii) Licensing

Neither Party shall discourage or impede voluntary licensing of trade secrets by imposing excessive



or discriminatory conditions on such licenses or conditions which dilute the value of trade secrets.

(iv) Government Use

(1) If a Party requires, as a condition of approving the marketing of pharmaceutical or agricultural chemical products which utilize new chemical entities, the submission of undisclosed test or other data, the origination of which involves a considerable effort, that Party shall protect such data against unfair commercial use. Further, each Party shall protect such data against disclosure except where necessary to protect the public or unless steps are taken to ensure that the data is protected against unfair commercial use.

(2) Unless the national or company submitting the information agrees, the data may not be relied upon for the approval of competing products for a reasonable period of time, taking into account the efforts involved in the origination of the data, their nature, and the expenditure involved in their preparation, and such period of time shall generally be not less than five years from the date of marketing approval.

(3) Where a Party relies upon a marketing approval granted by the other Party or a country other than the United States or Albania, the reasonable period of exclusive use of the data submitted in connection with



obtaining the approval relied upon shall commence with the date of the first marketing approval relied upon.

(f) Enforcement of Intellectual Property Rights

(i) Each Party shall protect intellectual property rights covered by this Article by means of civil law, criminal law, or administrative law or a combination thereof in conformity with the provisions below. Each Party shall provide effective procedures, internally and at the border, to protect these intellectual property rights against any act of infringement, and effective remedies to stop and prevent infringements and to effectively deter further infringements. These procedures shall be applied in such a manner as to avoid the creation of obstacles to legitimate trade and provide for safeguards against abuse.

(ii) Procedures concerning the enforcement of intellectual property rights shall be fair and equitable.

(iii) Decisions on the merits of a case shall, as a general rule, be in writing and reasoned. They shall be made known at least to the parties to the dispute without undue delay.

(iv) Each Party shall provide an opportunity for judicial review of final administrative decisions on the merits of an action concerning the protection of an intellectual property right. Subject to jurisdictional provisions in national laws concerning the importance of a case, an opportunity for judicial review of the legal



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aspects of initial judicial decisions on the merits of a case concerning the protection of an intellectual property right shall also be provided.

(v) Remedies against a Party

Notwithstanding the other provisions of paragraph 2(f), when a Party is sued for infringement of an intellectual property right as a result of the use of that right by or for the government, the Party may limit remedies against the government to payment of full compensation to the right-holder.

3. Each Party agrees to submit for enactment no later than December 31, 1993, the legislation necessary to carry out the obligations of this Article, and to exert its best efforts to enact and implement this legislation, as well as to adhere to the Conventions mentioned in paragraph 1, by that date.

4. For purposes of this Article:

(a) "right-holder," means the right-holder himself, any other natural or legal person authorized by him who are exclusive licensees of the right, or other authorized persons, including federations and associations, having legal standing under domestic law to assert such rights; and

(b) "A manner contrary to honest commercial practice" is understood to encompass, inter alia, practices such as theft, bribery, breach of contract, inducement to



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breach, electronic and other forms of commercial espionage, and includes the acquisition of trade secrets by third parties who knew, or had reasonable grounds to know, that such practices were involved in the acquisition.

## ARTICLE X

## AREAS FOR FURTHER ECONOMIC AND TECHNICAL COOPERATION

1. For the purpose of further developing bilateral trade and providing for a steady increase in the exchange of products and services, both Parties shall strive to achieve mutually acceptable agreements on taxation and investment issues, including the repatriation of profits and transfer of capital.

2. The Parties shall take appropriate steps to foster economic and technical cooperation on as broad a base as possible in all fields deemed to be in their mutual interest, including with respect to statistics and standards.

3. The Parties, taking into account the growing economic significance of service industries, agree to consult on matters affecting the conduct of service business between the two countries and particular matters of mutual interest relating to individual service sectors with the objective, among others, of attaining maximum possible market access and liberalization.



## ARTICLE XI

## MARKET DISRUPTION SAFEGUARDS

1. The Parties agree to consult promptly at the request of either Party whenever either actual or prospective imports of products originating in the territory or the other Party cause or threaten to cause or significantly contribute to market disruption. Market disruption exists within a domestic industry whenever imports of an article, like or directly competitive with an article produced by such domestic industry, are increasing rapidly, either absolutely or relatively, so as to be a significant cause of material injury, or threat thereof, to such domestic industry.

2. Determination of market disruption or threat thereof by the importing Party shall be based upon a good faith application of its laws and on an affirmative finding of relevant facts and on their examination. The importing Party, in determining whether market disruption exists, may consider, among other factors: the volume of imports of the merchandise which is the subject of the inquiry; the effect of imports of the merchandise on prices in the territory of the importing Party for like or directly competitive articles; the impact of imports of such merchandise on domestic producers of like or directly competitive articles; and evidence of disruptive pricing practices or other efforts to unfairly manage trade patterns.



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3. The consultations provided for in paragraph 1 of this Article shall have the objectives of (a) presenting and examining the factors relating to such imports that may be causing or threatening to cause or significantly contributing to market disruption, and (b) finding means of preventing or remedying such market disruptions. Such consultations shall be concluded within sixty days from the date of the request for such consultation, unless the Parties otherwise agree.

4. Unless a different solution is mutually agreed upon during the consultations, and notwithstanding paragraphs 1 and 2 of Article I, the importing Party may (a) impose quantitative import limitations, tariff measures or any other restrictions or measures it deems appropriate to prevent or remedy threatened or actual market disruption, and (b) take appropriate measures to ensure that imports from the territory of the other Party comply with such quantitative limitations or other restrictions. In this event, the other Party shall be free to deviate from its obligations under this Agreement with respect to substantially equivalent trade.

5. Where in the judgment of the importing Party, emergency action is necessary to prevent or remedy such market disruption, the importing Party may take such action at any time and without prior consultations provided that



such consultations shall be requested immediately thereafter.

6. In the selection of measures under this Article, the Parties shall endeavor to give priority to those which cause the least disturbance to the achievement of the goals of this Agreement.

7. Each Party shall ensure that its domestic procedures for determining market disruption are transparent and afford affected parties an opportunity to submit their views.

8. The Parties acknowledge that the elaboration of the market disruption safeguard provisions in this Article is without prejudice to the right of either Party to apply its laws and regulations applicable to trade in textiles and textile products and its laws and regulations applicable to unfair trade, including antidumping and countervailing duty laws.

## ARTICLE XII

### DISPUTE SETTLEMENT

1. Nationals and companies of either Party shall be accorded national treatment with respect to access to all courts and administrative bodies in the territory of the other Party, as plaintiffs, defendants or otherwise. They shall not claim or enjoy immunity from suit or execution of judgment, proceedings for the recognition and enforcement of



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arbitral awards, or other liability in the territory of the other Party with respect to commercial transactions; they also shall not claim or enjoy immunities from taxation with respect to commercial transactions, except as may be provided in other bilateral agreements.

2. The Parties encourage the adoption of arbitration for the settlement of disputes arising out of commercial transactions concluded between nationals or companies of the United States and nationals or companies of the Republic of Albania. Such arbitration may be provided for by agreements in contracts between such nationals and companies, or in separate written agreements between them.

3. The parties may provide for arbitration under any internationally recognized arbitration rules, including the UNCITRAL Rules of December 15, 1976 and any modifications thereto, in which case the parties should designate an Appointing Authority under said rules in a country other than the United States or the Republic of Albania.

4. Unless otherwise agreed between the parties, the parties should specify as the place of arbitration a country other than the United States or the Republic of Albania, that is a party to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York, June 10, 1958.

5. Nothing in this Article shall be construed to prevent, and the Parties shall not prohibit, the parties



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from agreeing upon any other form of arbitration or on the law to be applied in such arbitration, or other forms of dispute settlement which they mutually prefer and agree best suits their particular needs.

6. Each Party shall ensure that an effective means exists within its territory for the recognition and enforcement of arbitral awards.

#### ARTICLE XIII

##### NATIONAL SECURITY

The provisions of this Agreement shall not limit the right of either Party to take any action for the protection of its security interests.

#### ARTICLE XIV

##### CONSULTATIONS

1. The Parties agree to set up a Joint Commercial Commission which will, subject to the terms of reference of its establishment, foster economic cooperation and the expansion of trade under this Agreement and review periodically the operation of this Agreement and make recommendations for achieving its objectives.

2. The Parties agree to consult promptly through appropriate channels at the request of either Party to discuss any matter concerning the interpretation or



implementation of this Agreement and other relevant aspects of the relations between the Parties.

#### ARTICLE XV

##### DEFINITIONS

As used in this Agreement, the terms set forth below shall have the following meaning:

(a) "company," means any kind of corporation, company, association, sole proprietorship or other organization legally constituted under the laws and regulations of a Party or a political subdivision thereof, whether or not organized for pecuniary gain or privately or governmentally owned; provided that, either Party reserves the right to deny any company the advantages of this Agreement if nationals of any third country control such a company and, in the case of a company of the other Party, that company has no substantial business activities in the territory of the other Party or is controlled by nationals of a third country with which the denying country does not maintain normal economic relations;

(b) "commercial representation," means a representation of a company of a Party;

(c) "national," means a natural person who is a national of a Party under its applicable law.



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## ARTICLE XVI

## GENERAL EXCEPTIONS

1. Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed to prohibit the adoption or enforcement by a Party of:

(a) measures necessary to secure compliance with laws or regulations which are not contrary to the purposes of this Agreement;

(b) measures for the protection of intellectual property rights and the prevention of deceptive practices as set out in Article IX of this Agreement, provided that such measures shall be related to the extent of any injury suffered or the prevention of injury; or

(c) any other measure referred to in Article XX of the GATT.

2. Nothing in this Agreement limits the application of any existing or future agreement between the Parties on trade in textiles and textile products.



## ARTICLE XVII

## ENTRY INTO FORCE, TERM, SUSPENSION AND TERMINATION

1. This Agreement (including its side letters which are an integral part of the Agreement) shall enter into force on the date of exchange of written notices of acceptance by the two governments and shall remain in force as provided in paragraphs 2 and 3 of this Article.

2. (a) The initial term of this Agreement shall be three years, subject to subparagraph (b) and (c) of this paragraph.

(b) If either Party encounters or foresees a problem concerning its domestic legal authority to carry out any of its obligations under this Agreement, such Party shall request immediate consultations with the other Party. Once consultations have been requested, the other Party shall enter into such consultations as soon as possible concerning the circumstances that have arisen with a view to finding a solution to avoid action under subparagraph (c).

(c) If either Party does not have domestic legal authority to carry out its obligations under this Agreement, either Party may suspend the application of this Agreement or, with the agreement of the other Party, any part of this Agreement. In that event, the Parties will, to the fullest extent practicable and consistent with domestic law, seek to minimize disruption to existing trade relations between the two countries.



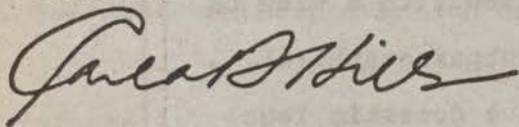
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3. This Agreement shall be extended for successive terms of three years each unless either Party has given written notice to the other Party of its intent to terminate this Agreement at least 30 days prior to the expiration of the then current term.

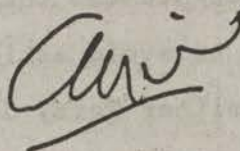
IN WITNESS THEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE at *Washington* on this *14<sup>th</sup>* day of *May* 1992, in two original copies in the English language. An Albanian language text shall be prepared which shall be considered equally authentic upon an exchange of diplomatic notes confirming its conformity with the English language text.

FOR THE UNITED STATES  
AMERICA:



FOR THE REPUBLIC  
OF ALBANIA:





Washington, May 14, 1992

Dear Mr. Secretary:

I have the honor to confirm receipt of your letter of today's date which reads as follows:

"In connection with the signing on this date of the Agreement on Trade Relations Between the Government of the United States of America and the Government of the Republic of Albania (the 'Agreement'), I have the honor to confirm the understanding reached by our Governments (the 'Parties') regarding tourism and travel-related services as follows:

1. The Parties recognize the need to encourage and promote the growth of tourism and travel-related investment and trade between the United States of America and the Republic of Albania. In this regard, the Parties recognize the desirability of exploring the possibility of negotiating a separate bilateral agreement on tourism.
2. The Parties recognize the benefits to both economies of increased tourism and travel-related investment in and trade between their two territories.

Official Tourism Promotion Offices

3. Each Party shall seek permission of the other Party prior to the establishment of official, governmental tourism promotion offices in the other's territory.
4. Permission to open tourism promotion offices or field offices, and the status of personnel who head and staff such offices, shall be as agreed upon by the Parties and subject to the applicable laws and regulations of the host country.
5. Tourism promotion offices opened by either Party shall be operated on a non-commercial basis. Official tourism promotion offices and the personnel assigned to them shall not function as agents or principals in commercial transactions, enter into contractual agreements on behalf of commercial organizations or engage in other commercial activities. Such offices shall not sell services to the public or otherwise compete with private sector travel agents or tour operators of the host country.

John G. Keller, Jr.  
Under Secretary for  
Travel and Tourism



6. Official governmental tourism offices shall engage in activities related to the facilitation of development of tourism between the United States and the Republic of Albania, including:

- a) providing information about the tourism facilities and attraction in their respective countries to the public, and travel trade and the media;
- b) conducting meetings and workshops for representatives of the travel industry;
- c) participating in trade shows;
- d) distributing advertising materials such as posters, brochures and slides, and coordinating advertising campaigns; and
- e) performing market research.

7. Nothing in this side letter shall obligate either Party to open such offices in the territory of the other Party.

#### Commercial Tourism Enterprises

8. Commercial tourism enterprises, whether privately or governmentally-owned, shall be treated as private commercial enterprises, fully subject to all applicable laws and regulations of the host country.

9. Each Party shall ensure within the scope of its legal authority and in accordance with its laws and regulations that any company owned, controlled or administered by that Party or any joint venture therewith or any private company or joint venture between private companies, which effectively controls a significant portion of the supply of any tourism or travel-related service in the territory of that Party shall provide those services to nationals and companies of the other Party on a fair and equitable basis.

Nothing in this letter or in the Agreement shall be construed to mean that tourism and travel-related services shall not receive the benefits from the Agreement as fully as all other industries and sectors.

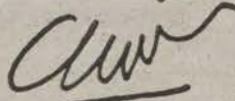
I have the honor to propose that this understanding be treated as an integral part of the Agreement. I would be grateful if you would confirm that this understanding is shared by your Government."



Page 3

I have the further honor to confirm that the foregoing understanding is shared by my Government and constitutes an integral part of the Agreement.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Naske Afezolli', written in a cursive style.

Naske Afezolli  
Deputy Minister  
Ministry of Trade and  
Foreign Economic Relations

[FR Doc. 92-14414

Filed 6-15-92; 4:17 pm]

Billing code 3190-01-C







## Presidential Documents

Proclamation 6446 of June 15, 1992

### To Modify Duty-Free Treatment Under the Generalized System of Preferences

By the President of the United States of America

#### A Proclamation

1. Pursuant to title V of the Trade Act of 1974, as amended (the 1974 Act) (19 U.S.C. 2461, *et seq.*), the President may designate specified articles provided for in the Harmonized Tariff Schedule of the United States (HTS) as eligible for preferential tariff treatment under the Generalized System of Preferences (GSP) when imported from designated beneficiary developing countries.

2. Pursuant to sections 501, 503(a), and 504(a) of the 1974 Act (19 U.S.C. 2461, 2463(a), and 2464(a)), in order to subdivide and amend the nomenclature of existing provisions of the HTS to modify the GSP, I have determined, after taking into account information and advice received under section 503(a), that the HTS should be modified to adjust the original designation of eligible articles. In addition, pursuant to title V of the 1974 Act, I have determined that it is appropriate to designate certain articles provided for in the HTS as eligible for preferential tariff treatment under the GSP when imported from designated beneficiary developing countries. Further, pursuant to section 504(a)(1) of the 1974 Act (19 U.S.C. 2464(a)(1)) and having considered the factors set forth in sections 501 and 502(c) of the 1974 Act (19 U.S.C. 2461 and 2462(c)), I have determined that certain beneficiary countries should not receive preferential tariff treatment under the GSP with respect to certain articles designated as eligible for preferential tariff treatment under the GSP.

3. Section 604 of the 1974 Act (19 U.S.C. 2483) authorizes the President to embody in the HTS the substance of the provisions of that Act, and of other acts affecting import treatment, and actions thereunder.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including but not limited to title V and section 604 of the 1974 Act, do proclaim that:

(1) In order to designate certain articles as eligible articles for purposes of the GSP when imported from certain designated beneficiary developing countries, the HTS is modified as provided in Annex I to this proclamation.

(2)(a) In order to designate certain articles as eligible articles for purposes of the GSP when imported from any designated beneficiary developing country, the Rates of Duty 1-Special subcolumn for the HTS subheadings enumerated in Annex II(a) to this proclamation is modified by inserting in the parentheses the symbol "A" as provided in such Annex.

(b) In order to designate certain articles as eligible articles for purposes of the GSP when imported from certain designated beneficiary developing countries and to provide that certain countries should not be treated as a beneficiary developing country with respect to such eligible articles, the Rates of Duty 1-Special subcolumn for each of the HTS subheadings enumerated in Annex II(b) to this proclamation is modified by inserting the symbol "A\*" as provided in such Annex.

(3) In order to provide that certain countries should not be treated as a beneficiary developing country with respect to certain eligible articles for



purposes of the GSP, general note 3(c)(ii)(D) to the HTS is modified as provided in Annex III to this proclamation.

(4) In order to provide for the continuation of previously proclaimed staged reductions on Canadian goods in the HTS subheadings modified in Annex I to this proclamation, effective with respect to goods originating in the territory of Canada which are entered, or withdrawn from warehouse for consumption, on or after the dates specified in Annex IV to this proclamation, the rate of duty in the HTS set forth in the Rates of Duty 1-Special subcolumn followed by the symbol "CA" in parentheses for each of the HTS subheadings enumerated in Annex IV to this proclamation is modified as provided in such Annex.

(5) In order to provide for the continuation of previously proclaimed staged reductions on products of Israel in the HTS subheadings modified in Annex I to this proclamation, effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the dates specified in Annex V to this proclamation, the rate of duty in the HTS set forth in the Rates of Duty 1-Special subcolumn followed by the symbol "IL" in parentheses for each of the HTS subheadings enumerated in Annex V to this proclamation is modified as provided in such Annex.

(6) Any provisions of previous proclamations and Executive orders inconsistent with the provisions of this proclamation are hereby superseded to the extent of such inconsistency.

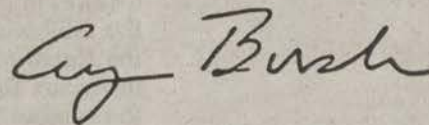
(7)(a) The modifications made by Annexes I, II, and III to this proclamation shall be effective with respect to articles both: (i) imported on or after January 1, 1976, and (ii) entered, or withdrawn from warehouse for consumption, on or after 15 days after the date of publication of this proclamation in the **Federal Register**.

(b) The modifications made by Annex IV(a) to this proclamation shall be effective with respect to goods originating in the territory of Canada which are entered, or withdrawn from warehouse for consumption, on or after January 1, 1993.

(c) The modifications made by Annex IV(b) to this proclamation shall be effective with respect to goods originating in the territory of Canada which are entered, or withdrawn from warehouse for consumption, on or after the dates indicated in Annex IV(b).

(d) The amendments made by Annex V to this proclamation shall be effective with respect to products of Israel which are entered, or withdrawn from warehouse for consumption, on or after January 1, 1995.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of June, in the year of our Lord nineteen hundred and ninety-two, and of the Independence of the United States of America the two hundred and sixteenth.





## Annex I

MODIFICATIONS TO THE HARMONIZED TARIFF  
SCHEDULE OF THE UNITED STATES (HTS)

The HTS is modified as provided below, with bracketed matter included to assist in the understanding of proclaimed modifications. The following supersedes matter now in the HTS. The subheadings and superior text are set forth in columnar format, and material in such columns is inserted in the columns of the HTS designated "Heading/Subheading", "Article Description", "Rates of Duty 1-General", "Rates of Duty 1-Special", and "Rates of Duty 2", respectively.

Effective with respect to articles both: (i) imported on or after January 1, 1976, and (ii) entered or withdrawn from warehouse for consumption, on or after 15 days after the date of publication of this proclamation in the Federal Register.

## 1. Subheading 2204.21.40 is superseded by:

[Wine of fresh grapes....]			
[Other wine....]			
[In containers holding 2 liters....]			
[Other:]			
"Of an alcoholic strength by volume not over 14 percent vol.:			
2204.21.30	If entitled under regulations of the United States Internal Revenue Service to a type designation which includes the name "Tokay" and if so designated on the approved label.....	9.9¢/liter	Free (A,E,IL) 5.9¢/liter (CA) Free (E,IL) 5.9¢/liter (CA)
2204.21.50	Other.....	9.9¢/liter	33¢/liter 33¢/liter

## 2. Subheading 2902.90.50 is superseded by:

[Cyclic hydrocarbons:]			
[Other:]			
"2902.90.40	Anthracene; and 1,4-Di-(2-methylstyryl)benzene.....	10.4%	Free (A*,E,IL) 2% (CA) Free (E,IL) 2% (CA)
2902.90.80	Other.....	10.4%	15.4¢/kg + 68.5% 15.4¢/kg + 68.5%

Conforming change: The article description for HTS heading 9902.29.02 is modified by deleting "2902.90.50" and inserting "2902.90.80" in lieu thereof.

## 3. Subheadings 2904.10.20 and 2904.10.30 are superseded and the following subheadings inserted in numerical sequence in lieu thereof:

[Sulfonated, nitrated....]			
[Derivatives containing only sulfo....]			
"2904.10.04	2-Anthracenesulfonic acid.....	13.5%	Free (A*,E,IL) 2.7% (CA) Free (A*,E,IL) 0.7¢/kg + 3.1% (CA)
2904.10.08	Benzenesulfonyl chloride.....	3.7¢/kg + 15.9%	15.4¢/kg + 51% 15.4¢/kg + 51%
[Other:]			
[Aromatic:]			
"2904.10.32	Products described in additional U.S. note 3 to section VI.....	13.5%	Free (E,IL) 2.7% (CA) Free (E,IL) 0.7¢/kg + 3.1% (CA)
2904.10.37	Other.....	3.7¢/kg + 15.9%	15.4¢/kg + 51% 15.4¢/kg + 51%

## 4. Subheading 2907.15.50 is superseded by:

[Phenols....]			
[Monophenols:]			
[Naphthols....]			
"2907.15.30	2-Naphthol ( $\beta$ -Naphthol).....	20%	Free (A*,CA,E,IL) 73%
2907.15.60	Other.....	20%	Free (E,IL) 4% (CA) 15.4¢/kg + 73%

Conforming changes:

- The article description for HTS heading 9902.29.08 is modified by deleting "2907.15.50" and inserting "2907.15.30" in lieu thereof.
- HTS subheading 9905.29.04 is deleted.



## Annex I (con.)

5. Subheadings 2908.20.10 and 2908.20.50 are superseded and the following subheadings inserted in numerical sequence in lieu thereof:

(Halogenated, sulfonated,...)				
[Derivatives containing only sulfo...]				
2908.20.04	2,5-Dihydroxybenzenesulfonic acid, potassium salt; 3,6-Dihydroxy-2,7-naphthalenedisulfonic acid; 3,6-Dihydroxy-2,7-naphthalenedisulfonic acid, sodium salt; 4-Hydroxy-1-naphthalenesulfonic acid, sodium salt; 1-Naphthol-3,6-disulfonic acid; and 2-Naphthol-3,6-disulfonic acid and its salts.....	6.4%	Free (E,IL) 1.2% (CA)	15.4c/kg + 45.5%
2908.20.08	4-Hydroxy-1-naphthalenesulfonic acid (1-Naphthol-4-sulfonic acid).....	6.4%	Free (A*,E,IL) 1.2% (CA)	15.4c/kg + 45.5%
2908.20.15	1,8-Dihydroxynaphthalene-3,6-disulfonic acid and its disodium salt.....	1.5c/kg + 19.4%	Free (A*,E) 0.2c/kg + 1.9% (IL) 0.3c/kg + 3.8% (CA)	15.4c/kg + 62%
[Other:]				
2908.20.60	Other.....	1.5c/kg + 19.4%	Free (E) 0.2c/kg + 1.9% (IL) 0.3c/kg + 3.8% (CA)	15.4c/kg + 62%

## Conforming changes:

a) The article description for HTS heading 9902.30.14 is modified by deleting "2908.20.10" and inserting "2908.20.04 or 2908.20.08" in lieu thereof.

b) The article descriptions for HTS headings 9902.29.10 and 9902.30.15 are modified by deleting "2908.20.50" and inserting "2908.20.60" in lieu thereof.

6. Subheading 2908.90.20 is superseded by:

[Halogenated, sulfonated,...]				
[Other:]				
"Dinitro-o-cresol and 4-nitro-m-cresol:				
2908.90.24	4,6-Dinitro-o-cresol.....	6%	Free (A*,E,IL) 1.2% (CA)	15.4c/kg + 45.5%
2908.90.28	Other.....	6%	Free (E,IL) 1.2% (CA)	15.4c/kg + 45.5%

7. Subheading 2914.49.10 is superseded by:

	[Ketones...:]			
	[Ketone-alcohols...:]			
	[Other:]			
	"Aromatic:			
2914.49.20	1,2,3-Indantrione monohydrate (Ninhydrin).....	11%	Free (A*,E,IL) 2.2% (CA)	15.4c/kg + 42%
2914.49.40	Other.....	11%	Free (E,IL) 2.2% (CA)	15.4c/kg + 42%

8. Subheading 2915.90.15 is superseded by:

[Saturated acyclic...]				
[Other:]				
[Acids:]				
"Other:				
2915.90.14	Valproic acid.....	4.2%	Free (A*,E,IL)	25%
			0.8% (CA)	
2915.90.18	Other.....	4.2%	Free (E,IL)	25%
			0.8% (CA)	

9. Subheading 2916.39.60 is superseded and the following subheadings inserted in numerical sequence in lieu thereof:

{Unsaturated acyclic...}				
{Aromatic monocarboxylic...}				
{Other:}				
"2916.39.06	Cinnamic acid.....	3.7c/kg + 17.9%	Free (A*,E,IL) 0.7c/kg + 3.5% (CA)	15.4c/kg + 57%
{Other:}				
{Other:}				
"2916.39.70	Other.....	3.7c/kg + 17.9%	Free (E,IL) 0.7c/kg + 3.5% (CA)	15.4c/kg + 57%

## Conforming changes:

a) The article description for HTS heading 9902.29.20 is modified by deleting "2916.39.50" and inserting "2916.39.70" in lieu thereof.

b) The article description for HTS subheading 9905.29.16 is modified by deleting "2916.39.60" and inserting "2916.39.70" in lieu thereof.



## Annex I (con.)

10. Subheading 2918.29.50 is superseded and the following subheadings inserted in numerical sequence in lieu thereof:

[Carboxylic acids with...:]			
[Carboxylic acids with phenol...:]			
[Other:]			
"2918.29.25	3-Hydroxy-2-naphthoic acid.....	3.7c/kg + 17.9%	Free (A*,CA,E,IL) 15.4c/kg + 57%
[Other:]			
"2918.29.80	Other.....	3.7c/kg + 17.9%	Free (CA,E,IL) 15.4c/kg + 57%

Conforming change: The article descriptions for HTS headings 9902.29.90 and 9902.30.25 are modified by deleting "2918.29.50" and inserting "2918.29.80" in lieu thereof.

11. Subheading 2921.42.70 is superseded and the following subheadings inserted in numerical sequence in lieu thereof:

[Amine-function compounds:]			
[Aromatic monoamines...:]			
[Aniline derivatives...:]			
N-Ethylaniline; and			
N,N-Diethylaniline.....			
"2921.42.15		2.4c/kg + 18.8%	Free (A*,E,IL) 15.4c/kg + 0.4c/kg + 3.7% (CA) 60%
[Other:]			
[Other:]			
"2921.42.75	Other.....	2.4c/kg + 18.8%	Free (E,IL) 15.4c/kg + 0.4c/kg + 3.7% (CA) 60%

Conforming change: The article descriptions for HTS headings 9902.30.28, 9902.30.30 and 9902.30.31 are modified by deleting "2921.42.70" and inserting "2921.42.75" in lieu thereof.

12. Subheadings 2922.30.20 and 2922.30.30 are superseded and the following subheadings inserted in numerical sequence in lieu thereof:

[Oxygen-function amino-compounds:]			
[Amino-aldehydes...:]			
[Aromatic:]			
"2922.30.14	2-Aminoanthraquinone.....	13.5%	Free (A*,E,IL) 15.4c/kg + 2.7% (CA) 50%
"2922.30.18	1-Aminoanthraquinone; and Ketamine hydrochloride.....	3.7c/kg + 15.6%	Free (A*,E,IL) 15.4c/kg + 0.7c/kg + 3.1% (CA) 50%
[Other:]			
"2922.30.25	Products described in additional U.S. note 3 to section VI.....	13.5%	Free (E,IL) 15.4c/kg + 2.7% (CA) 50%
"2922.30.35	Other.....	3.7c/kg + 15.6%	Free (E,IL) 15.4c/kg + 0.7c/kg + 3.1% (CA) 50%

Conforming change: The article descriptions for HTS headings 9902.29.43, 9902.29.44 and 9902.30.52 are modified by deleting "2922.30.30" and inserting "2922.30.35" in lieu thereof.

13. Subheading 2922.49.20 is superseded and the following subheadings inserted in numerical sequence in lieu thereof:

[Oxygen-function amino-compounds:]			
[Amino-acids...:]			
[Other:]			
[Aromatic:]			
"2922.49.15	Benzocaine; and Procaine hydrochloride.....	7%	Free (A*,E,IL) 15.4c/kg + 1.4% (CA) 45%
[Other:]			
"2922.49.25	Drugs.....	7%	Free (E,IL) 15.4c/kg + 1.4% (CA) 45%

14. Subheading 2922.50.15 is superseded and the following subheadings inserted in numerical sequence in lieu thereof:

[Oxygen-function amino-compounds:]			
[Amino-alcohol-phenols...:]			
[Aromatic:]			
"2922.50.05	$\alpha$ -Methyldopa.....	8%	Free (A*,CA,E,IL) 15.4c/kg + 65%
[Other:]			
[Drugs:]			
[Other:]			
"2922.50.15	Cardiovascular drugs...	8%	Free (CA,E,IL) 15.4c/kg + 65%



## Annex I (con.)

15. Subheadings 2924.21.20 and 2924.21.30 are superseded by:

	[Carboxamide-function compounds;...]			
	[Cyclic amides;...]			
	[Ureines;...]			
	[Aromatic;]			
	[Other;]			
2924.21.18	sym-Diethyldiphenylurea.....	3.7c/kg + 18.1%	Free (A*,E,IL) 0.7c/kg + 3.6% (CA)	15.4c/kg + 58%
2924.21.20	Other: Products described in additional U.S. note 3 to section VI...	13.5%	Free (E,IL) 2.7% (CA)	15.4c/kg + 58%
2924.21.45	Other.....	3.7c/kg + 18.1%	Free (E,IL) 0.7c/kg + 3.6% (CA)	15.4c/kg + 58%

16. Subheading 2925.20.30 is superseded and the following subheadings inserted in numerical sequence in lieu thereof:

[Carboximide-function compounds...]				
[Imines...]				
[Aromatic:]				
"2925.20.15	N,N-Diphenylguanidine.....	15%	Free (A*,CA,E) 1.5% (IL)	15.4c/kg + 61%
[Other:]				
"2925.20.40	Other.....	15%	Free (E) 1.5% (IL) 3% (CA)	15.4c/kg + 61%

Conforming changes:

a) The article description for HTS heading 9902.29.56 is modified by deleting "2925.20.30" and inserting "2925.20.15 or 2925.20.40" in lieu thereof.

b) The article description for HTS subheading 9905.29.29 is modified by deleting "diphenylguanidine, ".

17. Subheadings 2926.90.10, 2926.90.35 and 2926.90.40 are superseded and the following subheadings inserted in numerical sequence in lieu thereof:

[Nitrile-function compounds;]				
[Other;]				
[Aromatic;]				
2926.90.04	2-Amino-4-chlorobenzonitrile; (5-Chloro-2-cyanoaniline); 2-Amino-5-chlorobenzonitrile; 4-Amino-2-chlorobenzonitrile; (Cyanoethyl)(hydroxyethyl)-m- toluidine; 2-Cyano-4-nitroaniline; p-Cyanophenyl acetate; Dichlorobenzonitrile; Phthalonitrile; and Tetrachloro-3-cyanobenzoic acid, methyl ester.....	6.8%	Free (E,IL) 1.3% (CA)	15.4c/kg + 41%
2926.90.08	Benzonitrile.....	6.8%	Free (A*,E,IL) 1.3% (CA)	15.4c/kg + 41%
2926.90.14	p-Chlorobenzonitrile; and Verapamil hydrochloride.....	13.5%	Free (A*,E,IL) 2.7% (CA)	15.4c/kg + 65.5%
2926.90.17	o-Chlorobenzonitrile.....	20%	Free (A*,E,IL) 4% (CA)	15.4c/kg + 65.5%
[Other;]				
[Other;]				
2926.90.44	Products described in additional U.S. note 3 to section VI.....	13.5%	Free (E,IL) 2.7% (CA)	15.4c/kg + 65.5%
2926.90.48	Other.....	20%	Free (E,IL) 4% (CA)	15.4c/kg + 65.5%

Conforming changes:

a) The article description for HTS heading 9902.30.69 is modified by deleting "2926.90.10" and inserting "2926.90.04" in lieu thereof.

b) The article description for HTS heading 9902.29.57 is modified by deleting "2926.90.40" and inserting "2926.90.48" in lieu thereof.

18. Subheading 2930.90.20 is superseded by:

	[Organo-sulfur compounds:]			
	[Other:]			
	[Aromatic:]			
	-Other:			
2930.90.24	N-Cyclohexylthiophthalimide.....	6.7%	Free (A*,E,IL) 1.3% (CA)	15.4c/kg + 40.5%
2930.90.28	Other.....	6.7%	Free (E,IL) 1.3% (CA)	15.4c/kg + 40.5%



## Annex I (con.)

## 18. (con.):

Conforming change: The article descriptions for HTS headings 9902.29.61, 9902.30.74 and 9902.30.75 and HTS subheading 9905.29.31 are modified by deleting "2930.90.20" and inserting "2930.90.28" in lieu thereof.

## 19. Subheadings 2932.29.30 and 2932.29.40 are superseded by:

[Heterocyclic compounds with oxygen...]			
[Lactones:]			
[Other lactones:]			
[Aromatic:]			
[Other:]			
"2932.29.25	4-Hydroxycoumarin.....	3.7c/kg + 16.2%	Free (A*,CA,E,IL) 15.4c/kg + 52%
Other:			
2932.29.30	Products described in additional U.S. note 3 to section VI...	13.5%	Free (CA,E,IL) 15.4c/kg + 53.5%
2932.29.45	Other.....	3.7c/kg + 16.2%	Free (CA,E,IL) 15.4c/kg + 52%

## 20. Subheading 2933.39.35 is superseded and the following subheadings inserted in numerical sequence in lieu thereof:

[Heterocyclic compounds with nitrogen...]			
[Compounds containing an unfused pyridine...]			
[Other:]			
"2933.39.15	Cyproheptadine hydrochloride.....	8%	Free (A*,E,IL) 15.4c/kg + 1.6% (CA) 65%
[Other:]			
[Drugs:]			
"2933.39.37	Other.....	8%	Free (E,IL) 15.4c/kg + 1.6% (CA) 65%

Conforming change: The article descriptions for HTS headings 9902.29.70, 9902.29.99 and 9902.30.81 and HTS subheading 9905.29.32 are modified by deleting "2933.39.35" and inserting "2933.39.37" in lieu thereof.

## 21. Subheadings 2933.40.25 and 2933.40.50 are superseded and the following subheadings inserted in numerical sequence in lieu thereof:

[Heterocyclic compounds with nitrogen...]			
[Compounds containing a quinoline...]			
"2933.40.04	Chloroquine diphosphate.....	8.1%	Free (A*,E,IL) 15.4c/kg + 1.6% (CA) 67.5%
2933.40.08	4,7-Dichloroquinoline.....	3.7c/kg + 16.2%	Free (A*,E,IL) 15.4c/kg + 0.7c/kg + 3.2% (CA) 52%
[Other:]			
[Drugs:]			
"2933.40.27	Other.....	8.1%	Free (E,IL) 15.4c/kg + 1.6% (CA) 67.5%
[Other:]			
"2933.40.70	Other.....	3.7c/kg + 16.2%	Free (E,IL) 15.4c/kg + 0.7c/kg + 3.2% (CA) 52%

## 22. Subheading 2933.51.50 is superseded by:

[Heterocyclic compounds with nitrogen...]			
[Compounds containing a pyrimidine...]			
[Malonylurea...]			
"2933.51.30	Phenobarbital.....	3.7%	Free (A*,E,IL) 50%
2933.51.60	Other.....	3.7%	Free (E,IL) 50%

## 23. Subheading 2933.59.26 is superseded by:

[Heterocyclic compounds with nitrogen...]			
[Compounds containing a pyrimidine...]			
[Other:]			
[Drugs:]			
[Aromatic or modified...]			
[Anti-infective agents:]			
"2933.59.31	Nicarbazin.....	6.7%	Free (CA,E,IL) 15.4c/kg + 46%
2933.59.32	Trimethoprim.....	6.7%	Free (A*,CA,E,IL) 15.4c/kg + 46%



## Annex I (con.)

## 23. (con.):

## Conforming changes:

a) HTS subheadings 2933.59.27, 2933.59.28, 2933.59.29, 2933.59.30, 2933.59.35, 2933.59.40 and 2933.59.50 are renumbered as 2933.59.36, 2933.59.45, 2933.59.55, 2933.59.59, 2933.59.70, 2933.59.80 and 2933.59.90, respectively.

b) The article descriptions for HTS headings 9902.30.82 and 9902.30.85 are modified by deleting "2933.59.27" and inserting "2933.59.36" in lieu thereof.

c) The article description for HTS heading 9902.30.86 is modified by deleting "2933.59.50" and inserting "2933.59.90" in lieu thereof.

## 24. Subheadings 2933.90.27 and 2933.90.32 are superseded and the following subheadings inserted in numerical sequence in lieu thereof:

	[Heterocyclic compounds with nitrogen....]			
	[Other:]			
	[Aromatic or modified aromatic:]			
	[Other:]			
	[Drugs:]			
	[Anti-infective agents:]			
2933.90.41	Acriflavine; Acriflavine hydro- chloride; and Pyrazinamide.....	6.7%	Free (E,IL) 1.3% (CA)	15.4c/kg + 46%
2933.90.44	Carbadox.....	6.7%	Free (A*,E,IL) 1.3% (CA)	15.4c/kg + 46%
	[Drugs primarily....]			
	[Antidepressants....]			
2933.90.57	Clozapine; and Droperidol.....	6.6%	Free (E,IL) 1.3% (CA)	15.4c/kg + 45.5%
2933.90.59	Imipramine hydrochloride.....	6.6%	Free (A*,E,IL) 1.3% (CA)	15.4c/kg + 45.5%

## Conforming changes:

a) HTS subheadings 2933.90.28, 2933.90.29, 2933.90.30, 2933.90.31, 2933.90.33, 2933.90.34, 2933.90.35, 2933.90.36, 2933.90.37, 2933.90.39, 2933.90.40, 2933.90.47, 2933.90.48 and 2933.90.50 are renumbered as 2933.90.46, 2933.90.51, 2933.90.53, 2933.90.55, 2933.90.61, 2933.90.65, 2933.90.70, 2933.90.75, 2933.90.80, 2933.90.83, 2933.90.85, 2933.90.87, 2933.90.90 and 2933.90.95, respectively.

b) General note 3(c)(ii)(D) to the HTS is modified by deleting "2933.90.47" and inserting "2933.90.87" in lieu thereof.

c) The article description for HTS heading 9902.30.00 is modified by deleting "2933.90.33" and inserting "2933.90.61" in lieu thereof.

d) The article description for HTS heading 9902.30.88 is modified by deleting "2933.90.36" and inserting "2933.90.75" in lieu thereof.

e) The article description for HTS heading 9902.30.53 is modified by deleting "2933.90.37" and inserting "2933.90.80" in lieu thereof.

f) The article description for HTS heading 9902.30.89 is modified by deleting "2933.90.39" and inserting "2933.90.83" in lieu thereof.

g) The article descriptions for HTS headings 9902.30.53 and 9902.30.90 are modified by deleting "2933.90.50" and inserting "2933.90.95" in lieu thereof.

## 25. Subheadings 2934.30.10 and 2934.30.20 are superseded and the following subheadings inserted in numerical sequence in lieu thereof:

[Other heterocyclic compounds:]				
[Compounds containing a phenothiazine...]				
2934.30.04	Butaperazine maleate; Chlorpromazine; Etylperazine hydrochloride; Fluphenazine decanoate; Fluphenazine enanthate; Mesoridazine besylate; Piperacetazine; Promazine hydrochloride; 2-(Trifluoromethyl)phenothiazine; and Trifluoperazine hydrochloride.....	6.6%	Free (E,IL) 1.3% (CA)	15.4c/kg + 45%
2934.30.08	Prochlorperazine maleate; and Promethazine hydrochloride.....	6.6%	Free (A*,E,IL) 1.3% (CA)	15.4c/kg + 45%
2934.30.15	Chlorpromazine hydrochloride.....	16.6%	Free (A*,E,IL) 3.3% (CA)	15.4c/kg + 149.5%
[Other:]				
[Drugs:]				
2934.30.25	Antidepressants, tranquilizers and other psychotherapeutic agents.....	16.6%	Free (E,IL) 3.3% (CA)	15.4c/kg + 149.5%



## Annex I (con.)

26. Subheading 2934.90.45 is superseded and the following subheadings inserted in numerical sequence in lieu thereof:

{Other heterocyclic compounds:}				
{Other:}				
{Aromatic or modified aromatic:}				
"2934.90.08	2,5-Diphenyloxazole.....	3.7¢/kg + 16.2%	Free (A*,E,IL) 0.7¢/kg + 3.2% (CA)	15.4¢/kg + 52%
{Other:}				
{Other:}				
"2934.90.44	Other.....	3.7¢/kg + 16.2%	Free (E,IL) 0.7¢/kg + 3.2% (CA)	15.4¢/kg + 52%

27. Subheading 2935.00.46 is superseded by:

	[Sulfonamides:]			
	[Other:]			
	[Drugs:]			
	[Other:]			
2935.00.53	Glyburide; and Furosemide.....	6.9%	Free (A*,CA,E,IL)	15.4¢/kg + 45%
2935.00.57	Other.....	6.9%	Free (CA,E,IL)	15.4¢/kg + 45%

Conforming changes:

- HTS subheadings 2935.00.47 and 2935.00.50 are renumbered as 2935.00.70, and 2935.00.90, respectively.
- The article descriptions for HTS headings 9902.29.87, 9902.30.98 and 9902.30.99 are modified by deleting "2935.00.47" and inserting "2935.00.70" in lieu thereof.
- The article description for HTS heading 9902.29.86 is modified by deleting "2935.00.50" and inserting "2935.00.90" in lieu thereof.

28. Subheading 2937.92.30 is superseded by:

	[Hormones, natural or...]			
	[Other hormones...]			
	[Estrogens...]			
	[Other:]			
2937.92.40	Ethinodiol decanoate; D-Norgestrel; and DL-Norgestrel.....	6.7%	Free (A*,E,IL) 1.7% (CA)	15.4¢/kg + 78.5%
2937.92.80	Other.....	6.7%	Free (E,IL) 1.7% (CA)	15.4¢/kg + 78.5%

29. Subheadings 2937.99.10 and 2937.99.50 are superseded by:

[Hormones, natural or...]				
[Other hormones...]				
[Other:]				
2937.99.20	Desonide; Epinephrine; Epinephrine hydrochloride; and L-Thyroxine (Levothyroxine), sodium... 6.0%	Free (E,IL) 1.3% (CA)	15.4¢/kg + 49%	
2937.99.40	Nandrolone decanoate; and Pipcuronium bromide..... 3.2%	Free (A*,E,IL) 0.6% (CA)	25%	
2937.99.60	Nandrolone phenpropionate..... 6.0%	Free (A*,E,IL) 1.3% (CA)	15.4¢/kg + 49%	
2937.99.80	Other..... 3.2%	Free (E,IL) 0.6% (CA)	25%	

30. Subheading 5404.10.20 is superseded by:

[Synthetic monofilament of 67 decitex...]				
[Monofilament:]				
"Other:				
5404.10.40	Of polypropylene, not over 254 mm in length.....	7.8%	Free (A,E) 0.8% (IL) 4.6% (CA)	50%
5404.10.80	Other.....	7.8%	0.8% (IL) 4.6% (CA)	50%

Conforming changes: HTS subheading 9905.54.11 is modified by deleting "5404.10.20" and inserting "5404.10.80" in lieu thereof.



## Annex II

Modification in the HTS of an Article's Preferential  
Tariff Treatment under the GSP

Effective with respect to articles both: (i) imported on or after January 1, 1976, and (ii) entered, or withdrawn from warehouse for consumption, on or after 15 days after the date of publication of this proclamation in the Federal Register.

(a) For the following HTS subheadings, in the Rates of Duty 1-Special subcolumn, insert in the parentheses following the "Free" rate the symbol "A," in alphabetical order:

0210.12.00	2204.21.80	7318.15.80	8482.80.00
1210.10.00	2401.10.40	8112.91.10	9404.30.80
1210.20.00	6912.00.35	8482.30.00	9609.10.00
1602.49.40	6912.00.48	8482.40.00	
2204.10.00	7013.31.30	8482.50.00	

(b) For the following HTS subheadings, in the Rates of Duty 1-Special subcolumn, insert in the parentheses following the "Free" rate the symbol "A\*," in alphabetical order.

1602.50.20	2917.19.10	2939.40.10	3204.20.50	9105.19.10
2904.90.35	2918.21.50	2939.40.50	3812.10.10	9105.19.40
2907.23.00	2921.59.20	2941.40.00	3812.30.40	
2914.61.00	2936.26.00	3204.20.10	3822.00.50	

## Annex III

## Modifications to General Note 3(c)(ii)(D) of the HTS

Effective with respect to articles both: (i) imported on or after January 1, 1976, and (ii) entered, or withdrawn from warehouse for consumption, on or after 15 days after the date of publication of this proclamation in the Federal Register.

General note 3(c)(ii)(D) is modified by adding, in numerical sequence, the following HTS subheadings and countries set opposite them:

1602.50.20	Argentina	2922.30.14	India	2934.30.15	India
2902.90.40	India	2922.30.18	India	2934.90.08	India
2904.10.04	India	2922.49.15	India	2935.00.53	India
2904.10.08	India	2922.50.05	India	2936.26.00	India
2904.90.35	India	2924.21.18	India	2937.92.40	India
2907.15.30	India	2925.20.15	India	2937.99.40	India
2907.23.00	India	2926.90.08	India	2937.99.60	India
2908.20.08	India	2926.90.14	India	2939.40.10	India
2908.20.15	India	2926.90.17	India	2939.40.50	India
2908.90.24	India	2930.90.24	India	2941.40.00	India
2914.49.20	India	2932.29.25	India	3204.20.10	India
2914.61.00	India	2933.39.15	India	3204.20.50	India
2915.90.14	India	2933.40.04	India	3812.10.10	India
2916.39.06	India	2933.40.08	India	3812.30.40	India
2917.19.10	India	2933.51.30	India	3822.00.50	India
2918.21.50	India	2933.59.32	India	9105.19.10	Brazil
2918.29.25	India	2933.90.44	India	9105.19.40	Brazil
2921.42.15	India	2933.90.59	India		
2921.59.20	India	2934.30.08	India		



## Annex IV

Effective with respect to goods originating in the territory of Canada which are entered, or withdrawn from warehouse for consumption, on or after the dates set forth in the following tabulation.

(a) For each of the following subheadings created by Annex I to this proclamation, on or after January 1, 1993, in the Rates of Duty 1-Special subcolumn of the HTS, delete the symbol "(CA)" and the duty rate preceding it, and insert in the parentheses following the "Free" rate the symbol "CA," in alphabetical order:

2902.90.40	2915.90.18	2926.90.08	2933.90.44	2933.90.95
2902.90.80	2916.39.06	2926.90.14	2933.90.46	2934.30.04
2904.10.04	2916.39.70	2926.90.17	2933.90.51	2934.30.08
2904.10.08	2921.42.15	2926.90.44	2933.90.53	2934.30.15
2904.10.32	2921.42.75	2926.90.48	2933.90.55	2934.30.25
2904.10.37	2922.30.14	2930.90.24	2933.90.57	2934.90.08
2907.15.60	2922.30.18	2930.90.28	2933.90.59	2934.90.44
2908.20.04	2922.30.25	2933.39.15	2933.90.61	2935.00.70
2908.20.08	2922.30.35	2933.39.37	2933.90.65	2937.92.40
2908.20.15	2922.49.15	2933.40.04	2933.90.70	2937.92.80
2908.20.60	2922.49.25	2933.40.08	2933.90.75	2937.99.20
2908.90.24	2924.21.18	2933.40.27	2933.90.80	2937.99.40
2908.90.28	2924.21.20	2933.40.70	2933.90.83	2937.99.60
2914.49.20	2924.21.45	2933.51.30	2933.90.85	2937.99.80
2914.49.40	2925.20.40	2933.51.60	2933.90.87	
2915.90.14	2926.90.04	2933.90.41	2933.90.90	

(b) For each of the following subheadings created by Annex I to this proclamation, on or after January 1 of each of the following years, the rate of duty in the Rates of Duty 1-Special subcolumn in the HTS that is followed by the symbol "CA" in parentheses is deleted and the following rates of duty inserted in lieu thereof.

HTS Subheading	1993	1994	1995	1996	1997	1998
2204.21.30	: 4.9¢/liter	: 3.9¢/liter	: 2.9¢/liter	: 1.9¢/liter	: 0.9¢/liter	: Free
2204.21.50	: 4.9¢/liter	: 3.9¢/liter	: 2.9¢/liter	: 1.9¢/liter	: 0.9¢/liter	: Free
5404.10.40	: 3.9%	: 3.1%	: 2.3%	: 1.5%	: 0.7%	: Free
5404.10.80	: 3.9%	: 3.1%	: 2.3%	: 1.5%	: 0.7%	: Free

## Annex V

Effective with respect to products of Israel which are entered, or withdrawn from warehouse for consumption, on or after January 1, 1995.

For each of the following subheadings created by Annex I to this proclamation, in the Rates of Duty 1-Special subcolumn of the HTS, delete the symbol "(IL)" and the duty rate preceding it, and insert in the parentheses following the "Free" rate the symbol "IL" in alphabetical order:

2908.20.15	2925.20.40
2908.20.60	5404.10.40
2925.20.15	5404.10.80

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## Presidential Documents

Proclamation 6447 of June 15, 1992

### To Modify Duty-Free Treatment Under the Generalized System of Preferences and for Other Purposes

By the President of the United States of America

#### A Proclamation

1. Pursuant to title V of the Trade Act of 1974, as amended (the 1974 Act) (19 U.S.C. 2461, *et seq.*), the President may designate specified articles provided for in the Harmonized Tariff Schedule of the United States (HTS) as eligible for preferential tariff treatment under the Generalized System of Preferences (GSP) when imported from designated beneficiary developing countries.

2. Pursuant to section 504(c) of the 1974 Act (19 U.S.C. 2464(c)), beneficiary developing countries, except those designated as least-developed beneficiary developing countries pursuant to section 504(c)(6) of the 1974 Act (19 U.S.C. 2464(c)(6)), are subject to limitations on the preferential treatment afforded under the GSP. Pursuant to section 504(c)(5) of the 1974 Act (19 U.S.C. 2464(c)(5)), a country that is no longer treated as a beneficiary developing country with respect to an eligible article may be redesignated as a beneficiary developing country with respect to such article if imports of such article from such country did not exceed the limitations in section 504(c)(1) (after application of paragraph (c)(2)) during the preceding calendar year. Pursuant to section 504(d)(1) of the 1974 Act (19 U.S.C. 2464(d)(1)), the limitation provided for in section 504(c)(1)(B) of the 1974 Act (19 U.S.C. 2464(c)(1)(B)) shall not apply with respect to an eligible article if a like or directly competitive article was not produced in the United States on January 3, 1985. Further, pursuant to section 504(d)(2) of the 1974 Act (19 U.S.C. 2464(d)(2)), the President may disregard the limitation provided for in section 504(c)(1)(B) with respect to any eligible article if the appraised value of the total imports of such article into the United States during the preceding calendar year is not in excess of an amount which bears the same ratio to \$5,000,000 as the gross national product of the United States for that calendar year (as determined by the Department of Commerce) bears to the gross national product of the United States for calendar year 1979.

3. Sections 502(b)(7) and 502(c)(7) of the 1974 Act (19 U.S.C. 2462(b)(7) and 2462(c)(7)) provide that a country that has not taken or is not taking steps to afford internationally recognized worker rights, as defined in section 502(a)(4) of the 1974 Act (19 U.S.C. 2462(a)(4)), is ineligible for designation as a beneficiary developing country for purposes of the GSP. Pursuant to section 504(a) of the 1974 Act (19 U.S.C. 2464(a)), the President may withdraw, suspend, or limit the application of duty-free treatment under the GSP with respect to any article or with respect to any country upon consideration of the factors set forth in sections 501 and 502(c) of the 1974 Act (19 U.S.C. 2461 and 2462(c)).

4. Pursuant to sections 501, 503(a), and 504(a) of the 1974 Act (19 U.S.C. 2461, 2463(a), and 2464(a)), in order to subdivide and amend the nomenclature of existing provisions of the HTS to modify the GSP, I have determined, after taking into account information and advice received under section 503(a), that the HTS should be modified to adjust the original designation of eligible articles. In addition, pursuant to title V of the 1974 Act, I have determined that it is appropriate to designate certain articles provided for in the HTS as



eligible for preferential tariff treatment under the GSP when imported from designated beneficiary developing countries, and that such treatment for certain other articles should be terminated. I have also determined, pursuant to sections 504(a), (c)(1), and (c)(2) of the 1974 Act (19 U.S.C. 2464(a), (c)(1), and (c)(2)), that certain beneficiary countries should no longer receive preferential tariff treatment under the GSP with respect to certain eligible articles. Further, I have determined, pursuant to section 504(c)(5) of the 1974 Act, that certain countries should be redesignated as beneficiary developing countries with respect to certain eligible articles. These countries have been previously excluded from benefits of the GSP with respect to such eligible articles pursuant to section 504(c)(1) of the 1974 Act. Further, pursuant to section 504(d)(1) of the 1974 Act, I have determined that the limitation provided for in section 504(c)(1)(B) of the 1974 Act should not apply with respect to certain eligible articles because no like or directly competitive article was produced in the United States on January 3, 1985. Finally, I have determined that section 504(c)(1)(B) of the 1974 Act should not apply with respect to certain eligible articles pursuant to section 504(d)(2) of the 1974 Act.

5. Pursuant to sections 502(b)(7), 502(c)(7), and 504(a) of the 1974 Act, I have determined that it is appropriate to provide for the suspension of preferential treatment under the GSP for articles that are currently eligible for such treatment and that are imported from Syria. Such suspension is the result of my determination that Syria has not taken and is not taking steps to afford internationally recognized worker rights, as defined in section 502(a)(4) of the 1974 Act.

6. Section 503(c)(1) of the 1974 Act (19 U.S.C. 2463(c)(1)) provides that the President may not designate certain specified categories of import-sensitive articles as eligible articles under the GSP. Section 503(c)(1)(A) of the 1974 Act (19 U.S.C. 2463(c)(1)(A)) provides that textile and apparel articles that are subject to textile agreements are import-sensitive. Pursuant to section 504(a) of the 1974 Act, I am acting to modify the HTS to remove from eligibility under the GSP those articles that have become subject to textile agreements and to make certain conforming changes in the HTS.

7. In order to correct certain typographical errors in the HTS, I have determined that certain technical rectifications to the HTS are necessary and appropriate.

8. Section 604 of the 1974 Act (19 U.S.C. 2483) authorizes the President to embody in the HTS the substance of the provisions of that Act, and of other acts affecting import treatment, and actions thereunder.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including but not limited to title V and section 604 of the 1974 Act, do proclaim that:

(1) In order to designate certain articles as eligible articles for purposes of the GSP when imported from certain designated beneficiary developing countries and to remove from eligibility under the GSP those articles that have become subject to textile agreements, the HTS is modified as provided in Annex I to this proclamation.

(2)(a) In order to designate certain articles as eligible articles for purposes of the GSP when imported from any designated beneficiary developing country, the Rates of Duty 1-Special subcolumn for the HTS subheadings enumerated in Annex II(a) to this proclamation is modified by inserting in the parentheses the symbol "A" as provided in such Annex.

(b) In order to restore preferential tariff treatment under the GSP to a certain country that has been excluded from the benefits of the GSP for an eligible article, the Rates of Duty 1-Special subcolumn for the HTS provision set forth in Annex II(b) to this proclamation is modified: (i) by deleting the symbol "A" in parentheses, and (ii) by inserting the symbol "A" in lieu thereof.



(c) In order to provide that one or more countries should no longer be treated as beneficiary developing countries with respect to an eligible article for purposes of the GSP, the Rates of Duty 1-Special subcolumn for each of the HTS provisions enumerated in Annex II(c) to this proclamation is modified: (i) by deleting the symbol "A" in parentheses, and (ii) by inserting the symbol "A\*" in lieu thereof.

(3) In order to provide for the suspension of preferential treatment under the GSP for Syria, to provide that one or more countries which have not been treated as beneficiary developing countries with respect to an eligible article should be redesignated as beneficiary developing countries with respect to such article for purposes of the GSP, and to provide that one or more countries should no longer be treated as beneficiary developing countries with respect to an eligible article for purposes of the GSP, general note 3(c)(ii) to the HTS is modified as provided in Annex III to this proclamation.

(4) In order to provide for the continuation of previously proclaimed staged reductions on Canadian goods in the HTS provisions modified in Annex I to this proclamation, effective with respect to goods originating in the territory of Canada which are entered, or withdrawn from warehouse for consumption, on or after the dates specified in Annex IV to this proclamation, the rate of duty in the HTS set forth in the Rates of Duty 1-Special subcolumn followed by the symbol "CA" in parentheses for each of the HTS subheadings enumerated in Annex IV to this proclamation is modified as provided in such Annex.

(5) In order to correct certain typographical errors, the HTS is modified as set forth in Annex V to this proclamation.

(6) In order to provide for certain modifications to the GSP, the HTS is modified as set forth in Annex VI to this proclamation.

(7) Any provisions of previous proclamations and Executive orders inconsistent with the provisions of this proclamation are hereby superseded to the extent of such inconsistency.

(8)(a) The amendments made by Annexes I, II, and III(a) to this proclamation shall be effective with respect to articles both: (i) imported on or after January 1, 1976, and (ii) entered, or withdrawn from warehouse for consumption, on or after July 1, 1992.

(b) The amendment made by Annex III(b) to this proclamation shall be effective on or after 60 days after the date of publication of this proclamation in the **Federal Register**.

(c) The modifications made by Annex IV(a) to this proclamation shall be effective with respect to goods originating in the territory of Canada which are entered, or withdrawn from warehouse for consumption, on or after January 1, 1993.

(d) The modifications made by Annex IV(b) to this proclamation shall be effective with respect to goods originating in the territory of Canada which are entered, or withdrawn from warehouse for consumption, on or after the dates indicated in such Annex.

(e) The amendments made by Annex V to this proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date of signature of this proclamation.

(f) The amendments made by Annex VI to this proclamation shall be effective with respect to articles both: (i) imported on or after January 1, 1976, and (ii) entered, or withdrawn from warehouse for consumption, on or after a date to be announced in the **Federal Register** by the United States Trade Representative.



IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of June, in the year of our Lord nineteen hundred and ninety-two, and of the Independence of the United States of America the two hundred and sixteenth.

*George Bush*

Billing code 3195-01-M



## Annex I

The HTS is modified as provided below, with bracketed matter included to assist in the understanding of proclaimed modifications. The following supersedes matter in the HTS. The subheadings and superior text are set forth in columnar format, and material in such columns is inserted in the columns of the HTS designated "Heading/Subheading", "Article Description", "Rates of Duty 1-General", "Rates of Duty 1-Special", and "Rates of Duty 2", respectively.

Effective with respect to articles both: (i) imported on or after January 1, 1976, and (ii) entered, or withdrawn from warehouse for consumption, on or after July 1, 1992.

## 1. Subheading 2902.90.80 is superseded by:

[Cyclic hydrocarbons:]				
[Other:]				
2902.90.80	Biphenyl (diphenyl) in flakes.....	10.4%	Free (A*, E, IL, J)	15.4¢/kg +
			2% (CA)	68.5%
2902.90.90	Other.....	10.4%	Free (E, IL, J)	15.4¢/kg +
			2% (CA)	68.5%

Conforming change: The article description for HTS heading 9902.29.02 is modified by deleting "2902.90.80" and inserting "2902.90.90" in lieu thereof.

## 2. Subheadings 6307.90.86 and 6307.90.94 are superseded by:

[Other made up...:]				
[Other:]				
[Other:]				
6307.90.89	Surgical towels; cotton towels of pile or tufted construction; pillow shells, of cotton; shells for quilts, eiderdowns, comforters and similar articles of cotton.....	7%	Free (B, E*, IL, J*)	40%
			4.2% (CA)	
6307.90.99	Other.....	7%	Free (A, B, E, IL, J)	40%
			4.2% (CA)	

Conforming change: HTS subheadings 9902.57.01 and 9905.63.10 are modified by striking out "6307.90.94" and inserting "6307.90.99" in lieu thereof.

## 3. Subheading 7320.10.00 is superseded by:

[Springs and leaves for springs, of iron or steel:]				
[Leaf springs and leaves therefor:]				
[Suitable for motor-vehicle suspension:]				
[To be used in motor vehicles having a G.V.W. not exceeding 4 metric tons:]				
7320.10	Leaf springs and leaves therefor.....	4%	Free (A, B, E, IL, J)	25%
			2.4% (CA)	
7320.10.30	Suitable for motor-vehicle suspension: To be used in motor vehicles having a G.V.W. not exceeding 4 metric tons.....	4%	Free (B, E, IL, J)	25%
			2.4% (CA)	
7320.10.60	Other.....	4%	Free (A, B, E, IL, J)	25%
			2.4% (CA)	
7320.10.90	Other.....	4%	Free (A, B, E, IL, J)	25%
			2.4% (CA)	

## 4. Subheading 8527.29.00 is superseded by:

[Reception apparatus...:]				
[Radiobroadcast receivers...:]				
[Other:]				
8527.29	PM only or AM/FM only.....	8%	Free (A, B, E, IL, J)	35%
			1.6% (CA)	
8527.29.40	Other.....	8%	Free (B, E, IL, J)	35%
			1.6% (CA)	



## Annex II

Modification in the HTS of an Article's Preferential  
Tariff Treatment under the GSP

Effective with respect to articles both: (i) imported on or after January 1, 1976, and (ii) entered, or withdrawn from warehouse for consumption, on or after July 1, 1992.

(a) For the following HTS subheadings, in the Rates of Duty 1-Special subcolumn, insert in the parentheses following the "Free" rate the symbol "A," in alphabetical order:

0712.10.00	2005.70.21	2008.50.20	7318.15.20	8483.50.80
2005.70.11	2005.70.22	3926.20.50	7318.15.40	
2005.70.13	2005.70.25	7202.41.00	7318.15.60	
2005.70.15	2005.70.75	7202.49.50	7318.16.00	

(b) For HTS subheading 0710.80.70, in the Rates of Duty 1-Special subcolumn, delete the symbol "A\*" and insert an "A" in lieu thereof.

(c) For the following HTS subheadings, in the Rates of Duty 1-Special subcolumn, delete the symbol "A" and insert an "A\*" in lieu thereof:

0703.20.00	4820.90.00	8422.90.05	8527.11.60	9032.89.60
1905.90.90	7103.99.10	8431.42.00	8541.40.80	9403.90.60
3920.71.00	7321.11.30	8507.30.00	8708.29.00	9613.80.20
4008.19.10	7322.90.00	8512.90.20	8713.10.00	
4016.99.25	7407.21.90	8516.10.00	9018.90.80	
4104.10.20	8112.91.50	8517.10.00	9026.80.60	

## Annex III

## Modifications to General Note 3(c)(ii) of the HTS

(a) Effective with respect to articles both: (i) imported on or after January 1, 1976, and (ii) entered, or withdrawn from warehouse for consumption, on or after July 1, 1992.

General note 3(c)(ii)(D) is modified:

(1) by deleting the following HTS subheading and the country set opposite such subheading:

0710.80.70 Guatemala

(2) by adding in numerical sequence, the following HTS subheadings and countries set opposite them:

0703.20.00	Mexico	8512.90.20	Mexico
1905.90.90	Mexico	8516.10.00	Mexico
2902.90.60	India	8517.10.00	Thailand
3920.71.00	Mexico	8527.11.60	Malaysia
4008.19.10	Malaysia	8541.40.80	Mexico
4016.99.25	Thailand	8708.29.00	Mexico
4104.10.20	Argentina	8713.10.00	Mexico
4820.90.00	Mexico		
7103.99.10	Thailand	9018.90.80	Dominican Republic;
7321.11.30	Mexico		Mexico
7322.90.00	Mexico		
7407.21.90	Brazil	9026.80.60	Mexico
8112.91.50	Chile	9032.89.60	Mexico
8422.90.05	Mexico	9403.90.60	Mexico
8431.42.00	Mexico	9613.80.20	Mexico
8507.30.00	Mexico		



## Annex III (con.)

(a) (con.):

(3) by deleting the following countries opposite the following HTS subheadings:

1701.11.01	Dominican Republic
2929.90.50	Bahamas

(4) by adding, in alphabetical order, the following countries opposite the following HTS subheadings:

1701.11.02	Guatemala
2905.31.00	Mexico
2915.24.00	Mexico
2934.90.14	Brazil
8521.10.00	Malaysia

(b) Effective on or after 60 days after the date of publication of this proclamation in the Federal Register.

General note 3(c)(ii)(A) is modified by deleting "Syria" from the enumeration of independent countries.

## Annex IV

Effective with respect to goods originating in the territory of Canada which are entered, or withdrawn from warehouse for consumption, on or after the dates set forth below.

(a) For each of the following subheadings created by Annex I to this proclamation, on or after January 1, 1993, in the Rates of Duty 1-Special subcolumn of the HTS, delete the symbol "(CA)" and the duty rate preceding it, and insert in the parentheses following the "Free" rate the symbol "CA," in alphabetical order:

2902.90.60
2902.90.90
8527.29.40
8527.29.80

(b) For each of the following subheadings created by Annex I to this proclamation, on or after January 1 of each of the following years, the rate of duty in the Rates of Duty 1-Special subcolumn in the HTS that is followed by the symbol "CA" in parentheses is deleted and the following rates of duty inserted in lieu thereof.

HTS							
Subheading	1993	1994	1995	1996	1997	1998	
6307.90.89	: 3.5%	: 2.8%	: 2.1%	: 1.4%	: 0.7%	: Free	
6307.90.99	: 3.5%	: 2.8%	: 2.1%	: 1.4%	: 0.7%	: Free	
	:	:	:	:	:	:	
7320.10.30	: 2%	: 1.6%	: 1.2%	: 0.8%	: 0.4%	: Free	
7320.10.60	: 2%	: 1.6%	: 1.2%	: 0.8%	: 0.4%	: Free	
7320.10.90	: 2%	: 1.6%	: 1.2%	: 0.8%	: 0.4%	: Free	
	:	:	:	:	:	:	



## Annex V

Effective with respect to articles which are entered, or withdrawn from warehouse for consumption, on or after the date of signature of this proclamation:

1. The article description for HTS subheading 0709.20.10 is deleted and the following is inserted in lieu thereof:

"Not reduced in size, entered during the period from September 15 to November 15, inclusive, in any year, and transported to the United States by air"

2. The article description for HTS subheading 7214.60.00 is modified by striking out "or or" and inserting "or" in lieu thereof.
3. The article description for HTS subheading 8215.99.50 is modified by striking out "parts" and inserting "parts)" in lieu thereof.

## Annex VI

Effective with respect to articles both: (i) imported on or after January 1, 1976, and (ii) entered, or withdrawn from warehouse for consumption, on or after a date to be announced in the Federal Register by the United States Trade Representative.

1. The HTS is modified as provided below, with bracketed matter included to assist in the understanding of proclaimed modifications. The following supersedes matter in the HTS. The subheadings and superior text are set forth in columnar format, and material in such columns is inserted in the columns of the HTS designated "Heading/Subheading", "Article Description", "Rates of Duty 1-General", "Rates of Duty 1-Special", and "Rates of Duty 2", respectively.

Subheading 0814.00.90 is superseded by:

	(Peel of citrus...)			
0814.00.40	Lime.....	2c/kg	Free (A,CA,E,IL,J)	4.4c/kg
0814.00.80	Other.....	2c/kg	Free (CA,E,IL,J)	4.4c/kg

2. For HTS subheading 1604.19.25:

(a) In the Rates of Duty 1-Special subcolumn, insert in the parentheses following the "Free" rate the symbol "A," in alphabetical order.

(b) Pursuant to section 504(d)(1) of the 1974 Act, the limitation provided for in section 504(c)(1)(B) should not apply to articles provided for in HTS subheading 1604.19.25 because no like or directly competitive article was produced in the United States on January 3, 1985.

3. For HTS subheading 7413.00.10:

(a) General note 3(c)(1)(D) is modified by deleting "7413.00.10 Peru".

(b) In the Rates of Duty 1-Special subcolumn, delete the symbol "A\*" and insert an "A" in lieu thereof.

[FR Doc. 92-14418

Filed 6-15-92; 4:45 pm]

Billing code 3190-01-C



# Rules and Regulations

Federal Register

Vol. 57, No. 117

Wednesday, June 17, 1992

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## DEPARTMENT OF THE TREASURY

### Office of Thrift Supervision

#### 12 CFR Parts 563c and 571

[No. 92-16]

#### Investment Portfolio Policy and Accounting Guidelines

**AGENCY:** Office of Thrift Supervision, Treasury.

**ACTION:** Final rule; removal of statement of policy and conforming amendments.

**SUMMARY:** The Office of Thrift Supervision (OTS) is removing its Statement of Policy concerning investment portfolio policy and accounting guidelines and is making conforming amendments to its regulations on accounting requirements. The Statements of Policy became effective on April 1, 1990 after the effective date was delayed twice. The OTS has determined to remove the Statement of Policy in response to the release of the FFIEC "Statement of Policy on Securities Activities".

**EFFECTIVE DATE:** June 17, 1992.

**FOR FURTHER INFORMATION CONTACT:** David H. Martens, Chief Accountant, Office of Thrift Supervision, (202) 906-5654; or Gary Jeffers, Chief Accountant, Corporate and Securities Division, (202) 906-6457, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

**SUPPLEMENTARY INFORMATION:** With the increased investment powers granted savings associations in the 1980s and the utilization of those powers by savings associations, the Federal Home Loan Bank Board ("Board"), predecessor to the Office of Thrift Supervision ("OTS"), became concerned that savings associations were not following generally accepted accounting principles ("GAAP") in accounting for their holdings of various types of securities.

By Board Resolution No. 88-460, 51 FR 23244 (June 21, 1988), the Board proposed a Statement of Policy that was intended to clarify GAAP in the area of accounting for securities and to set forth certain documentation requirements for securities investment and trading activities conducted by savings associations. After considering written comments submitted to the Board and comments offered in a public hearing, the Board revised the proposed Statement of Policy and issued the final Statement of Policy by Board Resolution No. 89-1480, 54 FR 23457 (June 1, 1989).

In adopting the final Statement of Policy, the board stated its belief that it was merely clarifying existing GAAP, not revising, redefining or setting new GAAP. Further, in the preamble to the final Statement of Policy, the Board stated that it realized:

That GAAP, specifically, accounting for securities, as currently defined and interpreted by the [Financial Accounting Standards Board] FASB staff, may change through the due process of the accounting standards setting bodies. When these bodies promulgate new generally accepted accounting principles, the Board, consistent with its requirements, will adopt the new principles. Until such time, the Board will continue to apply and uphold current authoritative literature.

54 FR 23464, 23465 (June 1, 1989).

In the preamble to the final Statement of Policy, the Board noted that the Federal Financial Institutions Examination Council ("FFIEC") and the American Institute of Certified Public Accountants (through the Accounting Standards Executive Committee ("AcSEC")) were developing documents to address, respectively, the regulatory and accounting aspects of accounting for securities transactions. See 54 FR 23460. During the pendency of the AcSEC's work, the Board and, later, the Director of the OTS delayed twice the effective date of the Statement of Policy to permit further development of uniform accounting standards for all financial institutions. The FFIEC continued its work on a document to address, *inter alia*, certain types of securities transactions the FFIEC believed to be inherently trading activities and to address documentation standards.

On May 25, 1990, the AcSEC released to the public an exposure draft of a Statement of Position ("draft SOP") entitled, "Reporting by Financial

Institutions of Debt Securities Held as Assets," that addressed accounting standards for securities transactions. The intent of the AcSEC at that time was to permit a certain period for comment on the draft SOP, to consider such comments, and to publish a final SOP so it would apply to fiscal years ending after December 15, 1990. The draft SOP contained certain revisions to GAAP, most notably, the change from a "hold to maturity" standard for the use of amortized cost accounting for securities held for investment purposes to a "hold for the foreseeable future" standard as the predicate for use of amortized cost accounting.

It has been anticipated that the SOP would be adopted in final form by the AcSEC. Regrettably, however, this did not occur. The final SOP—issued on November 30, 1990—requires additional market value and maturity disclosures in the footnotes to the financial statements. In addition, the AcSEC indicated that the FASB should consider adding to the agenda of the FASB financial instruments project a measurement standard for securities held for investment purposes.

Given the failure of AcSEC to provide guidance on this matter, and the continued risk of abusive accounting practices to continue in this area, the OTS determined that, rather than undertake further effort to clarify GAAP, the OTS continued to support the FFIEC efforts to address this issue and would also proceed separately to promulgate rigorous supervisory reporting standards for savings associations through a separate rulemaking implementing the OTS's authorities under FIRREA to establish uniform accounting and disclosure standards for savings associations.

On December 3, 1991, the FFIEC announced its approval of a policy statement on securities activities that updates and revises its Supervisory Policy Statement on the "Selection of Securities Dealers and Unsuitable Investment Practices," which was approved by the FFIEC in April 1988. In approving the policy statement, the

<sup>1</sup> The draft SOP defined the "foreseeable future" as one year from the present balance sheet date; however, known plans which would be accomplished over periods greater than one year would be considered to affect the intent to hold securities. Thus, such plans are considered to be part of the foreseeable future.



FFIEC recommended to the five member agencies—which includes the OTS—that they adopt the policy statement.

The new policy statement, among other things, requires depository institutions to establish prudent policies and strategies for securities transactions, defines securities trading or sales practices that are viewed by the agencies as being unsuitable when conducted in an investment portfolio, and indicates the characteristics of loans held for sale or trading. This new policy statement was the subject of two comment periods, resulting in the receipt and consideration of over 200 comment letters.

The OTS has adopted this policy statement through the issuance of Thrift Bulletin Number 52. The guidance in this Thrift Bulletin supersedes this old policy statement.

#### Administrative Procedure Act

Pursuant to 5 U.S.C. 553(b)(B), 553(d)(1) and 553(d)(3), the OTS finds good cause for dispensing the notice and comment, and the 30-day delay of the effective date provisions of the Administrative Procedures Act.

Pursuant to section 553(b)(B), where good cause is found, a Federal agency may dispense with notice and comment procedures where such procedures are unnecessary and contrary to the public interest. As noted above, the new FFIEC policy statement was subjected to two comment periods, resulting in the receipt and consideration of over 200 comment letters. Thus, an interagency coordinating and standards setting body, the FFIEC, after extensive public comment process, has adopted accounting standards in this area. Notice and comment on withdrawal of the Statement of Policy therefore is unnecessary as interested persons already have had a full opportunity to comment on the relevant issues through the FFIEC due process procedures. Further, the OTS believes that it would be contrary to the public interest to revisit the accounting issues when the FFIEC, following extensive public comment, has developed standards that are applied uniformly on an interagency basis. Delaying withdrawal of the OTS Statement of Policy only prolongs confusion and additional, unnecessary costs for savings associations as they attempt to understand how two different standards apply, and to achieve compliance. It is not in the public interest to continue unclear and unnecessarily burdensome regulatory requirements.

Section 553(d)(1) permits dispensing with the 30-day delay of the effective date where a substantive rule relieves a

restriction. Here, the withdrawal of the Statement of Policy relieves savings associations from a more restrictive accounting standard as savings associations will be required to comply with a less restrictive accounting standard. Thus, the OTS believes immediate withdrawal of the Statement of Policy is appropriate pursuant to section 553(d)(1).

Furthermore, the OTS finds good cause for dispensing with the 30-day delay of the effective date of this notice pursuant to section 553(d)(3). One purpose of the 30-day delay of the effective date is to provide affected persons with the opportunity to come into compliance with a new rule or regulation. This is not an issue here; essentially, compliance with the present, more restrictive accounting standard will include compliance with the FFIEC-developed accounting standard. Thus, in the instant case, minimal transition efforts, if any, will be necessary to conform to the new standard. Moreover, where, as here, the Federal agency is replacing the Statement of Policy with a Supervisory Policy Statement approved by the FFIEC, a recognized standards setting body, the OTS does not believe delaying the effective date serves any public interest. Therefore, pursuant to section 553(d)(3), the OTS withdraws its Statement of Policy effective immediately.

#### Executive Order 12291

The OTS has determined that this rule does not constitute a "major rule" and therefore, does not require the preparation of a final regulatory impact analysis.

#### Regulatory Flexibility Act

The rule is not subject to the provisions of the Regulatory Flexibility Act because no notice of proposed rulemaking is required.

#### List of Subjects

##### 12 CFR Part 563c

Accounting, Reporting and recordkeeping requirements, Savings associations, Securities.

##### 12 CFR Part 571

Accounting, Conflicts of interest, Gold, Reporting, Investments and recordkeeping requirements, Savings associations.

Accordingly, the OTS hereby amends chapter V, title 12, Code of Federal Regulations, as set forth below.

#### Subchapter D—Regulations Applicable to All Savings Associations

#### PART 563c—ACCOUNTING REQUIREMENTS

1. The authority citation for part 563c continues to read as follows:

**Authority:** Sec. 3, as added by sec. 301, 103 Stat. 278 (12 U.S.C. 1462a), sec. 4, as added by sec. 301, 103 Stat. 280 (12 U.S.C. 1463); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 3(b), 12-14, 23, 48 Stat. 882, 892, 894-895, 901, as amended (15 U.S.C. 78c(b), m, n, w).

2. Section 563c.102 is amended by revising paragraph I.4, the first sentence of paragraph I.6(a), and paragraph I.7 to read as follows:

##### § 563c.102 Financial statement presentation.

\* \* \* \* \*

##### I. Balance Sheet

\* \* \* \* \*

4. *Trading account assets.* Include securities considered to be held for trading purposes.

\* \* \* \* \*

6. *Investment securities.* (a) Include securities considered to be held for investment purposes. \* \* \*

\* \* \* \* \*

7. *Assets held for sale.* Investments in assets considered to be held for sale purposes should be reported separately in the statement of financial condition.

\* \* \* \* \*

#### PART 571—STATEMENTS OF POLICY

3. The authority citation for part 571 continues to read as follows:

**Authority:** Sec. 552, 80 Stat. 383, as amended (5 U.S.C. 552); sec. 559, 80 Stat. 388, as amended (5 U.S.C. 559); sec. 3, as added by sec. 301, 103 Stat. 278 (12 U.S.C. 1462a); sec. 4, as added by sec. 301, 103 Stat. 280 (12 U.S.C. 1463); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464).

##### § 571.19 [Removed]

4. Section 571.19 is removed.

**Note:** This document was received at the Office of the Federal Register on June 11, 1992.

Dated: January 22, 1992.

By the Office of Thrift Supervision.

Timothy Ryan,

Director.

[FR Doc. 92-14129 Filed 6-16-92; 8:45 am]

BILLING CODE 6720-01-M



**FARM CREDIT ADMINISTRATION****12 CFR Part 611**

RIN 3052-AB14

**Organization****AGENCY:** Farm Credit Administration.**ACTION:** Final rule.

**SUMMARY:** The Farm Credit Administration (FCA), by the Farm Credit Administration Board (Board), adopts a final regulation amending subpart I of part 611 of FCA regulations, addressing the organization of service corporations by Farm Credit System (System) institutions. This regulation was published as a proposed regulation on March 12, 1990, 55 FR 9138. The final regulation addresses the organization of service corporations under section 4.25 of the Farm Credit Act of 1971, as amended (Act), to exercise authority granted under title VIII of the Act, to act as certified agricultural mortgage marketing facilities (title VIII service corporations). The final regulation also authorizes all institutions of the System, except the Federal Agricultural Mortgage Corporation (Farmer Mac) or its affiliates, to organize title VIII service corporations and exempts such corporations from the requirement of existing regulations that the stock of service corporations be owned only by System banks. The final rule permits persons (individuals and legal entities) other than System institutions to own stock in such organizations provided that 80 percent of the voting stock is held by System institutions (other than Farmer Mac or its affiliates).

**EFFECTIVE DATE:** The regulations shall become effective upon the expiration of 30 days after publication during which either or both houses of Congress are in session. Notice of the effective date will be published in the *Federal Register*.

**FOR FURTHER INFORMATION CONTACT:** John J. Hays, FCA Examiner, Policy and Risk Analysis Division, Office of Examination, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4258, TDD (703) 883-4444, or Christine C. Dion, Attorney, Regulatory and Legislative Law Division, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4020, TDD (703) 883-4444.

**SUPPLEMENTARY INFORMATION:****I. General**

The Agricultural Credit Act of 1987 (1987 Act) established the Federal Agricultural Mortgage Corporation (Farmer Mac) to guarantee securities

issued by agricultural mortgage marketing facilities that pool and securitize agricultural real estate and rural home loans under a new title VIII of the Farm Credit Act of 1971, as amended (Act). Section 8.5(e) of the Act authorizes System institutions other than Farmer Mac, notwithstanding any other provision of the Act, to establish and operate, as an affiliate, an agricultural mortgage marketing facility (pooler) if it obtains certification from Farmer Mac. It is clear from the 1987 Act and its legislative history that System institutions are empowered to participate fully in the secondary market for agricultural real estate and rural home loans under title VIII. Consequently, section 8.5 of the Act is read by the FCA to amend inconsistent provisions of the Act, such as section 4.25, to the extent necessary to permit the chartering of such an entity with such powers as are necessary to conduct an effective pooling operation.

Section 4.25 of the Act authorizes the banks of the Farm Credit System to organize a corporation for the purpose of performing functions and services for or on behalf of the organizing banks that the banks may perform pursuant to the Act. Such a corporation, like the organizing banks, is designated a Federal instrumentality. Since section 8.5(e) authorizes all System institutions other than Farmer Mac to establish a pooler affiliate, and since section 4.25 is the exclusive mechanism for chartering System affiliates, section 4.25 is considered to be amended by section 8.5(e) to the extent necessary to permit the chartering of a pooler affiliate by an institution empowered to do so by section 8.5(e), including institutions other than banks. Moreover, such a statutory amendment overrides any inconsistent FCA regulations.

It is noted that the Food, Agriculture, Conservation, and Trade Act Amendments of 1991, Public Law 102-237; 105 Stat. 1876 (1991 Act), amended title VIII of the Act to authorize Farmer Mac to establish, acquire, and maintain affiliates under applicable State laws. Such affiliates may only conduct those activities that Farmer Mac is authorized to perform under title VIII. Farmer Mac is not authorized under section 8.5(e) of the Act to establish and operate, as an affiliate, an agricultural mortgage marketing facility. Therefore, neither Farmer Mac nor its affiliates may organize title VIII service corporations. Accordingly, the words "or its affiliates" have been inserted after the words "other than the Federal Agricultural Mortgage Corporation" in the final regulation. The final regulation does not address the authorities granted to

Farmer Mac and its affiliates under the Food, Agriculture, Conservation, and Trade Act of 1990, Public Law 101-624; 104 Stat. 3834, to pool and securitize qualified loans, as defined in section 8.0(9)(B) of the Act. Furthermore, the final regulation does not address the authorities granted under the 1991 Act to Farmer Mac to establish, acquire, and maintain State-chartered affiliates.

Although the Act itself contains no restriction on who may own stock in a service corporation, existing FCA regulations governing the organization of service corporations (set forth in subpart I of part 611) restrict ownership in service corporations organized under section 4.25 to banks of the Farm Credit System. The proposed amendment was issued to allow any System institution(s) (other than Farmer Mac) to organize a pooler and to own stock in a System pooler. The proposed amendment also permitted minority ownership by persons other than System institutions provided that 80 percent of the equity of the corporation would at all times be held by System institutions.

The FCA has considered the appropriateness of proceeding with this regulation in light of the President's 120-day regulatory review period and has determined the implementation of this final regulation would enhance System opportunity to participate in the growth of the secondary agricultural mortgage market. The final regulation broadens eligibility for stock ownership of a title VIII service corporation by permitting associations and persons or entities other than System institutions to own stock. The FCA believes the ability to issue stock to non-System originators would enable the System pooler to compete effectively for loan volume. Also, the ability to issue stock to non-System institutions would facilitate joint ventures for the purpose of sharing the expertise and technical capacity of non-System institutions to achieve cost efficiencies.

Comments concerning the proposed amendment to the service corporation regulations were received from the Farm Credit Council (FCC) and a Farm Credit Bank (FCB). The FCB concurred with the comments of the FCC. The FCC stated that all System banks and service corporations had reviewed and concurred with its comments.

**II. Discussion of Comments**

The FCC agreed with the stated objectives of the proposed regulation, to authorize System institutions to participate fully in the agricultural secondary mortgage market by the creation of title VIII service



corporations, and to permit some non-System ownership of such corporations. The FCC also agreed generally with the FCA's position, expressed in the preamble of the proposed regulation, that the ability to control significant corporation actions (such as dissolution, merger, and sale of substantially all assets) should be retained by System institutions. The FCC, however, suggested two modifications to the proposed regulation regarding non-System stock ownership.

The FCC's first suggestion was to amend the regulation to reserve the right for the FCA to approve a higher percentage of non-System stock ownership on a case-by-case basis for good cause. The second suggestion was to clarify whether the regulation's limitation on non-System stock ownership applied to both voting and nonvoting stock. While acknowledging the need to restrict non-System ownership of voting stock, the FCC questioned whether the same concerns regarding control are applicable to nonvoting stock. The FCC requested that any limitation imposed on non-System ownership of nonvoting stock be at a higher level than the 20-percent limitation imposed on non-System ownership of voting stock. Specifically, the FCC suggested that the proposed regulation be amended to permit non-System ownership of 50 percent of the nonvoting stock, with the FCA reserving the discretionary right to raise the percentage.

The FCA notes that statutes authorizing national banks and federally chartered savings and loan institutions to organize service corporations require 100-percent ownership by the organizing institutions. However, since there is no such requirement in section 4.25 of the Act, the FCA is endeavoring to allow System poolers the flexibility to issue stock to non-System institutions while at the same time ensuring that control of the pooler organized under section 4.25 is retained in System institutions. The control requirement of 80 percent of all classes of equity was proposed to ensure that Farm Credit institutions collectively retain control of the title VIII service corporation. The 80-percent control level ensures that non-System institutions could not block significant corporate actions, requiring a two-thirds majority, in which important interests of the System are at stake. The FCA also set the percentage higher than that required for a simple majority vote, to take into account that not all System institutions will agree on all issues and to ensure that a single non-System shareholder owning more voting stock

than any single System institution could not exercise its considerable influence to the detriment of the System as a whole. The FCA's 80-percent stock ownership requirement is consistent with control levels required for national banks' operating subsidiaries, which are similar to the service corporations in that they allow a segment of an institution's business to be spun off into a separate legal entity. It is also noted that the FCA's 80-percent control level is comparable to the requirements of change-of-control statutes applicable to national banks and federally chartered savings and loan institutions. The statutes define the term "control" to include the power to vote 25 percent of the institution's stock. Under such statutes, an institution must, at a minimum, have the power to vote 75 percent of the stock to retain control of corporate operations.

In view of the above, the FCA has determined to retain the 80-percent requirement for System ownership of stock in the final regulation. Application of the requirement will not be on a discretionary or case-by-case basis. The FCA continues to believe that non-System stock ownership of more than 20 percent would jeopardize requisite control by System institutions of significant corporate matters. However, the FCA agrees with the FCC that the 80-percent stock ownership requirement should only be applied to equity with voting rights. The final regulation does not limit non-System ownership of nonvoting stock, as such stock, unlike voting stock, does not pose a regulatory concern regarding control. The final regulation, which requires System institutions (other than Farmer Mac or its affiliates) to hold at least 80 percent of voting stock, authorizes non-System ownership of 20 percent of voting stock and unlimited ownership of nonvoting stock.

#### List of Subjects in 12 CFR Part 611

Agriculture, Banks, banking, Conflict of interest, Rural areas.

For reasons stated in the preamble, part 611 of chapter VI, title 12 of the Code of Federal Regulations is amended as follows:

#### PART 611—ORGANIZATION

1. The authority citation for part 611 is revised to read as follows:

**Authority:** Secs. 1.3, 1.13, 2.0, 2.10, 3.0, 3.21, 4.12, 4.15, 5.9, 5.10, 5.17, 7.0-7.13, 8.5(e) of the Farm Credit Act; 12 U.S.C. 2011, 2021, 2071, 2091, 2121, 2142, 2183, 2203, 2243, 2244, 2252, 2279a-2279f-1, 2279a-5(e); secs. 411 and 412 of Pub. L. 100-233, 101 Stat. 1568, 1638.

#### Subpart I—Service Organizations

2. Subpart I is amended by adding a new § 611.1137 to read as follows:

#### § 611.1137 Title VIII service corporations.

(a) Service corporations may be organized by any Farm Credit institution(s) other than the Federal Agricultural Mortgage Corporation or its affiliates for the purpose of exercising the authorities granted under title VIII of the Act to act as agricultural mortgage marketing facilities. The requirements of §§ 611.1135 and 611.1136 apply as if such organizing institutions were banks, except for good cause as determined by the Farm Credit Administration. Such service corporations may issue stock to Farm Credit institutions other than the Federal Agricultural Mortgage Corporation or its affiliates and to persons that are not Farm Credit System institutions, provided at least 80 percent of the voting stock is at all times held by Farm Credit institutions other than the Federal Agricultural Mortgage Corporation or its affiliates.

(b) For the purposes of this regulation, *person* means an individual or a legal entity organized under the laws of the United States or any State or territory thereof.

Dated: June 11, 1992.

Curtis M. Anderson,  
Secretary, Farm Credit Administration Board.  
[FR Doc. 92-14149 Filed 6-16-92; 8:45 am]  
BILLING CODE 6705-01-M

#### DEPARTMENT OF COMMERCE

#### Bureau of Export Administration

#### 15 CFR Part 799

[Docket No. 920528-2128]

#### Foreign Policy Controls on Items Related to the Design, Development, Production, or Use of Missiles; Batch Mixers

**AGENCY:** Bureau of Export Administration, Commerce.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Bureau of Export Administration maintains the Commerce Control List (CCL), which identifies those items that are subject to Department of Commerce export controls. This interim rule amends a number of Export Control Classification Numbers (ECCNs) on the CCL to conform with U.S. foreign policy



controls on commodities, software, and technology related to the design, development, production, or use of weapons delivery systems described in § 778.7(a) of the Export Administration Regulations (EAR). These foreign policy controls are maintained by the United States in consultation with other countries that participate in the Missile Technology Control Regime (MTCR).

Specifically, this rule revises ECCN 1B28B to reflect recent technical changes in multilateral export controls on certain batch mixers and continuous mixers for mixing solid propellants. In addition, a new ECCN 9A23B is added to control certain liquid or slurry propellant control systems, for rocket systems and unmanned air vehicle systems described in § 778.7(a)(3). Servo valves and pumps for these propellant control systems, which were previously controlled by ECCNs 9B23B and 9B24B, respectively, have been moved to new ECCN 9A23B because they belong in Category 9A (Equipment, Assemblies and Components) instead of Category 9B (Test, Inspection and Production Equipment). Finally, ECCN 9B07A, which controls equipment specially designed for inspecting the integrity of rocket motors, is revised by removing the Note that describes controls on certain radiographic equipment. This radiographic equipment is now controlled by ECCN 9B27B.

This rule will have a limited impact on validated licensing requirements, and on the paperwork burden on exporters, because the revisions made by this rule will not result in a significant change in the number of export license applications that will have to be submitted.

**DATES:** This rule is effective June 17, 1992. Comments must be received by July 17, 1992.

**ADDRESSES:** Written comments (six copies) should be sent to Willard Fisher, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

**FOR FURTHER INFORMATION CONTACT:** For questions on foreign policy controls related to missiles, call Raymond Jones, Office of Technology and Policy Analysis, Bureau of Export Administration, Telephone: (202) 377-4244.

For questions of a technical nature on missile-related controls, call Bruce Webb, Office of Technology and Policy Analysis, Bureau of Export Administration, Telephone: (202) 377-3806.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Department of Commerce maintains foreign policy controls on certain commodities, software, and technology on the Commerce Control List (CCL) that are related to the design, development, production, or use of weapons delivery systems described in § 778.7(a) of the EAR. The items on the CCL that are subject to these foreign policy controls are included in the "Equipment and Technology Annex" (the Annex) maintained by the governments participating in the Missile Technology Control Regime (MTCR). As agreed by all MTCR participating governments, items contained on the Annex are controlled by these governments through the implementation of national export control programs. Annex items are subject to control because of concerns relating to the proliferation of weapons delivery systems described in § 778.7(a)(3).

This interim rule revises certain Export Control Classification Numbers (ECCNs) on the CCL to conform with the MTCR Annex. These ECCN revisions are based on multilateral technical consultations with MTCR countries.

This interim rule revises ECCN 1B28B to reflect recent technical changes in the Annex affecting multilateral export controls on certain batch mixers and continuous mixers for mixing solid propellants. ECCN 1B28B now controls batch mixers that have all of the following characteristics: (i) Capable of mixing solid propellants or propellant constituents under vacuum in the range from 0 kPa to 13.326 kPa; (ii) temperature control capacity of the mixing chamber; (iii) total volumetric capacity of 110 liters (30 gallons) or more; and (iv) at least one mixing/kneading shaft mounted off center. Previously, batch mixers were controlled if they had a working capacity of 110 liters (30 gallons) or more, or a total volumetric capacity of 170 liters (45 gallons) or more.

In addition, ECCN 1B28B now controls continuous mixers that have all of the following characteristics: (1) Capable of mixing solid propellants or propellant constituents under vacuum in the range from 0 kPa to 13.326 kPa; (ii) temperature control capacity of the mixing chamber; (iii) two or more mixing/kneading shafts; and (iv) mixing chamber capable of being opened.

This rule also adds a new ECCN 9A23B, which controls liquid or slurry propellant control systems, for rocket systems and unmanned air vehicle systems described in § 778.7(a)(3), that

are designed or modified to operate in vibration environments of more than 10 g RMS between 20 Hz and 2,000 Hz. New ECCN 9A23B also controls servo valves and pumps for these propellant control systems, which were previously controlled by ECCNs 9B23B and 9B24B, respectively. These items, which were inappropriately included in the list of test, inspection, and production equipment for Category 9, have been moved to the list of equipment, assemblies, and components for Category 9. Software and technology entries 9D24B and 9E21B are also revised to reflect the transfer of these valves and pumps from ECCNs 9B23B and 9B24B to ECCN 9A23B. Except for the new controls on liquid or slurry propellant systems in ECCN 9A23B, this rule does not affect the level of control for any of the items described in these entries.

Finally, ECCN 9B07A, which controls equipment specially designed for inspecting the integrity of rocket motors, is revised by removing the Note that describes controls on certain radiographic equipment. This radiographic equipment is now controlled by ECCN 9B27B, which provides more complete coverage than ECCN 9B07A because 9B07A previously controlled only radiographic equipment that was "specially designed" for inspecting the integrity of rocket motors. For this reason, the controls previously maintained on radiographic equipment under ECCN 9B07A were not consistent with the multilateral controls described in the Annex. This rule corrects this inconsistency by clarifying that all such equipment, as described in 9B27.a, is controlled.

##### Rulemaking Requirements

1. This rule is consistent with Executive Orders 12291 and 12661.
2. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3051 *et seq.*). These collections have been approved by the Office of Management and Budget under control numbers 0694-0005 and 0694-0010.
3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.
4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory



Flexibility Analysis has to be or will be prepared.

5. The provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a foreign and military affairs function of the United States. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

However, because of the importance of the issues raised by these regulations, this rule is issued in interim form and comments will be considered in the development of final regulations. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views. Comments on the contract sanctity provisions contained in this rule are especially encouraged.

The period for submission of comments will close July 17, 1992. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting the comments and will not consider them in the development of final regulations. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the Bureau of Export Administration Freedom of Information Records Inspection Facility, room 4525, Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230. Records in this facility, including written public

comments and memoranda summarizing the substance of oral communications, may be inspected and copies in accordance with regulations published in part 4 of title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Margaret Cornejo, Bureau of Export Administration Freedom of Information Officer, at the above address or by calling (202) 377-5653.

#### List of Subjects in 15 CFR Part 799

Exports, Reporting and recordkeeping requirements.

Accordingly, part 799 of the Export Administration Regulations (15 CFR parts 730-799) is amended as follows:

1. The authority citation for 15 CFR part 799 continues to read as follows:

Authority: Pub. L. 90-351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; sec. 101, Pub. L. 93-153, 87 Stat. 576 (30 U.S.C. 185), as amended; sec. 103, Pub. L. 94-163, 89 Stat. 877 (42 U.S.C. 6212), as amended; secs. 201 and 201(11)(e), Pub. L. 94-258, 90 Stat. 309 (10 U.S.C. 7420 and 7430(e)), as amended; Pub. L. 95-223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95-242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.*); and 42 U.S.C. 2139a; sec. 208, Pub. L. 95-372, 92 Stat. 668 (43 U.S.C. 1354); Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended; sec. 125, Pub. L. 99-64, 99 Stat. 156 (46 U.S.C. 486c); E.O. 11912 of April 13, 1976 (41 FR 15825, April 15, 1976); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978); E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990), as continued by Notice of September 26, 1991 (56 FR 49385, September 27, 1991); and E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 14, 1991 (56 FR 58171, November 15, 1991).

#### PART 799—[AMENDED]

##### Supplement No. 1 to § 799.1 [Amended]

2. In Supplement No. 1 to § 799.1 (the Commerce Control List), Category 1 (Materials), ECCN 1B28B is revised to read as follows:

#### 1B28B Other equipment for the production of propellants.

##### Requirements

##### Validated License Required:

QSTVWYZ

Unit: Number; components in \$ value

Reason for Control: MT

GLV: \$0

GCT: No

GFW: No

##### List of Items Controlled

a. Batch mixers and continuous

mixers, as follows, capable of mixing solid propellants or propellant constituents under vacuum in the range from 0 kPa to 13.326 kPa, and with temperature control capability of the mixing chamber:

a.1. Batch mixers having:

a.1.a. A total volumetric capacity of 110 liters (30 gallons) or more; and

a.1.b. At least one mixing/kneading shaft mounted off center;

a.2. Continuous mixers having:

a.2.a. Two or more mixing/kneading shafts; and

a.2.b. Capability to open the mixing chamber;

b. Other equipment for production, handling, mixing, curing, casting, pressing, machining, extruding or acceptance testing of solid propellants or propellant constituents, including but not limited to:

b.1. Equipment for the production of atomized or spherical metallic powder in a controlled environment; and

b.2. Fluid energy mills for grinding or milling ammonium perchlorate, RDX, or HMX;

c. Equipment for production, handling, or acceptance testing of liquid propellants or propellant constituents;

d. Specially designed components for the items described in 1B28.a through 1B28.c.

3. In Supplement No. 1 to § 799.1 (the Commerce Control List), Category 9 (Propulsion Systems and Transportation Equipment), new ECCN 9A23B is added immediately following ECCN 9A22B, as follows:

**9A23B Liquid or slurry propellant control systems, pumps and servo valves therefor, and specially designed components therefor.**

##### Requirements

##### Validated License Required:

QSTVWYZ

Unit: Number; parts and accessories in \$ value

Reason for Control: MT

GLV: \$1,000

GCT: No

GFW: No

##### List of Items Controlled

a. Liquid or slurry propellant (including oxidizers) control systems, for rocket systems and unmanned air vehicle systems described in § 778.7(a)(3) of this subchapter, that are designed or modified to operate in vibration environments of more than 10 g RMS between 20 Hz and 2,000 Hz;

b. Pumps, for liquid propellant control systems controlled by 9A23.a, that:

b.1. Have shaft speeds equal to or



greater than 8,000 RPM or discharge pressures equal to or greater than 7,000 kPa (1,000 psi); and

b.2. Are designed or modified to operate in vibration environments of more than 10 g RMS between 20 Hz and 2,000 Hz;

c. Servo valves, for liquid or slurry propellant control systems controlled by 9A23.a, that:

c.1. Are designed or modified for flow rates of 24 liters per minute or greater, at an absolute pressure of 7,000 kPa (1,000 psi) or greater;

c.2. Have an actuator response time of less than 100 msec.; and

c.3. Are designed or modified to operate in vibration environments of more than 10 g RMS between 20 Hz and 2,000 Hz;

d. Specially designed components for liquid or slurry propellant control systems described in 9A23.a.

4. In Supplement No. 1 to § 799.1 (the Commerce Control List), Category 9 (Propulsion Systems and Transportation Equipment), ECCN 9B07A is revised to read as follows:

**9B07A** Equipment specially designed for inspecting the integrity of rocket motors using non-destructive test (NDT) techniques other than planar X-ray or basic physical or chemical analysis.

#### Requirements

*Validated License Required:* QSTVWYZ

*Unit:* Number

*Reason for Control:* NS, MT

*GLV:* \$0

*GCT:* No

*GFW:* No

5. In Supplement No. 1 to § 799.1, Category 9, ECCNs 9B23B and 9B24B are removed.

6. In Supplement No. 1 to § 799.1 (the Commerce Control List), Category 9 (Propulsion Systems and Transportation Equipment), ECCN 9B27B is revised to read as follows:

**9B27B** Test equipment and test benches or stands for complete rocket systems and unmanned air vehicle systems, and subsystems for these systems, capable of delivering at least a 500 kg payload to range of at least 300 km.

#### Requirements

*Validated License Required:* QSTVWYZ

*Unit:* Test equipment in number; test benches or stands in \$ value

*Reason for Control:* MT

*GLV:* \$5,000

*GCT:* No

*GFW:* No

#### List of Items Controlled

a. Test equipment, as follows, for complete rocket systems, unmanned air

vehicle systems, and subsystems for these systems: radiographic equipment (linear accelerators) capable of delivering electromagnetic radiation produced by "bremsstrahlung" from accelerated electrons of 2 MeV or greater or by using radioactive sources of 1 MeV or greater, except those specially designed for medical purposes;

b. Test benches or stands that have the capacity to handle solid or liquid propellant rockets or rocket motors of more than 90 KN (20,000 lbs.) of thrust, or that are capable of simultaneously measuring the three axial thrust components.

7. In Supplement No. 1 to § 799.1 (the Commerce Control List), Category 9 (Propulsion Systems and Transportation Equipment), ECCN 9D24B is revised to read as follows:

**9D24B** "Software", n.e.s., specially designed or modified for the "development", "production", or "use" of propulsion systems and equipment controlled by 9A21, 9A22, 9A23, 9B21, 9B25, 9B26, or 9B27, and "software", n.e.s., specially designed or modified for the "use" of equipment controlled by 9B01, 9B02, 9B03, 9B04, 9B06, or 9B07.

#### Requirements

*Validated License Required:* QSTVWYZ

*Unit:* \$ value

*Reason for Control:* MT

*GTDR:* No

*GTDU:* No

8. In Supplement No. 1 to § 799.1 (the Commerce Control List), Category 9 (Propulsion Systems and Transportation Equipment), ECCN 9E21B is revised to read as follows:

**9E21B** Technology for the "development", "production", or "use" of equipment controlled by 9A21, 9A22, 9A23, 9B21, 9B25, 9B26, or 9B27, or "software" controlled by 9D24, and technology for the "use" of equipment controlled by 9B01, 9B02, 9B03, 9B04, 9B06, or 9B07.

#### Requirements

*Validated License Required:* QSTVWYZ

*Reason for Control:* MT

*GTDR:* No

*GTDU:* No

Dated: June 11, 1992.

James M. LeMunyon,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 92-14170 Filed 6-16-92; 8:45 am]

BILLING CODE 3510-DT-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 510

#### Animal Drugs, Feeds, and Related Products; Change of Sponsor Name

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor name for a new animal drug application (NADA) from Mobay Corp., Animal Health Division, to Miles, Inc., Agriculture Division, Animal Health Products.

**EFFECTIVE DATE:** June 17, 1992.

#### FOR FURTHER INFORMATION CONTACT:

Benjamin A. Puyot, Center for Veterinary Medicine (HFV-130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-295-8646.

**SUPPLEMENTARY INFORMATION:** Mobay Corp., Animal Health Division, P.O. Box 390, Shawnee Mission, KS 66201, has informed FDA of a change of sponsor name from Mobay Corp., Animal Health Division, to Miles, Inc., Agriculture Division, Animal Health Products. Accordingly, FDA is amending the regulations in 21 CFR 510.600(c)(1) and (c)(2) to reflect the change of sponsor name.

#### List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 510 is amended as follows:

#### PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

**Authority:** Secs. 201, 301, 501, 502, 503, 512, 701, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 376).

#### § 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the table in paragraph (c)(1) in the entry for "Mobay Corp., Animal Health Division" and in the table in paragraph (c)(2) in the entry for "000859" by revising the



sponsor name to read "Miles, Inc., Agriculture Division, Animal Health Products."

Dated: June 9, 1992.

Lonnie W. Luther,

Acting Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 92-14174 Filed 6-16-92; 8:45 am]

BILLING CODE 4160-01-M

## 21 CFR Part 546

### Animal Drugs, Feeds, and Related Products; Change of Sponsor; Technical Amendment

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule; technical amendment.

**SUMMARY:** The Food and Drug Administration (FDA) is amending a final rule that appeared in the *Federal Register* of March 4, 1992 (57 FR 7651). The document amended the animal drug regulations to reflect a change of sponsor for a new animal drug application (NADA) from Pfizer, Inc., to Wade Jones Co., Inc. The amended regulation failed to reflect that Pfizer, Inc., is the sponsor of another NADA for an identical product. This document corrects that error.

**EFFECTIVE DATE:** March 4, 1992.

#### FOR FURTHER INFORMATION CONTACT:

Benjamin A. Puyot, Center for Veterinary Medicine (HFV-130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-295-8646.

**SUPPLEMENTARY INFORMATION:** In the *Federal Register* of March 4, 1992 (57 FR 7651), FDA published a document that amended the animal drug regulations to reflect a change of sponsor for NADA 65-140 for tetracycline soluble powder from Pfizer, Inc., to Wade Jones Co., Inc. Accordingly, FDA amended the regulations in 21 CFR 546.180d to remove the drug labeler code for Pfizer, Inc., and replace it with the drug labeler code for Wade Jones Co., Inc. However, Pfizer, Inc., is the sponsor of approved NADA 65-123 for tetracycline soluble powder and should remain as an NADA sponsor in that regulation. Therefore, 21 CFR 546.180d is corrected to add Pfizer, Inc.'s, drug labeler code.

#### List of Subjects in 21 CFR Part 546

Part 546: Animal drugs, Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR Part 546 is amended as follows:

## PART 546—TETRACYCLINE ANTIBIOTIC DRUGS FOR ANIMAL USE

1. The authority citation for 21 CFR Part 546 continues to read as follows:

**Authority:** Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

### § 546.180d [Amended]

2. Section 546.180d *Tetracycline soluble powder* is amended in paragraphs (c)(6)(i) (a)(3), (c)(6)(i)(b)(3), (c)(6)(ii)(d), (c)(6)(iii)(a)(3), (c)(6)(iii)(b)(3), (c)(6)(iii)(c)(3), (c)(6)(iv)(a)(3), and (c)(6)(iv)(b)(3) by removing "000009 and 047864" and adding in its place "000009, 000069, and 047864".

Dated: June 9, 1992.

Lonnie W. Luther,

Acting Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 92-14175 Filed 6-16-92; 8:45 am]

BILLING CODE 4160-01-M

## EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

### 29 CFR Part 1602

#### Records and Reports for State and Local Governments

**AGENCY:** Equal Employment Opportunity Commission.

**ACTION:** Final rule; waiver of reporting requirement.

**SUMMARY:** In conjunction with a proposed regulation change published elsewhere in this issue of the *Federal Register*, the Equal Employment Opportunity Commission voted on May 5, 1992, to waive the requirement for filing the State and Local Government Information Report EEO-4 for calendar year 1992. This action does not change the recordkeeping requirements, which are not waived, and the Commission reaffirms its filing requirements, for which it has published a notice of proposed rulemaking elsewhere in this issue of the *Federal Register*, on a biennial basis starting in calendar year 1993. See 29 CFR 1602.32. Since the 1992 reporting requirements have been waived and no EEO-4 forms will be mailed to entities required to report, no further reporting action is required on the 1992 reports. The Commission used its authority under sections 709 and 713 of title VII, 42 U.S.C. 2000e-8, 2000e-12, in determining to waive the filing requirement for 1992.

**EFFECTIVE DATE:** June 17, 1992.

**FOR FURTHER INFORMATION CONTACT:** Joachim Neckere, Director, Program Research and Surveys Division at (202)

663-4958 (voice) or (202) 708-9300 (TDD).

For the Commission.

Evan J. Kemp, Jr.,

Chairman.

[FR Doc. 92-14161 Filed 6-16-92; 8:45 am]

BILLING CODE 6750-01-M

## DEPARTMENT OF THE INTERIOR

### Minerals Management Service

#### 30 CFR Part 250

#### Oil and Gas and Sulphur Operations in the Outer Continental Shelf

**AGENCY:** Minerals Management Service, Interior.

**ACTION:** Correcting amendments.

**SUMMARY:** This document contains corrections to the consolidated offshore operating rules which were published on Friday, April 1, 1988 (53 FR 10596). The correcting amendments relate to the installation, testing, and repair requirements for the Department of the Interior pipelines contained in § 250.153. **EFFECTIVE DATE:** June 17, 1992.

#### FOR FURTHER INFORMATION CONTACT:

Wanda Stepanek, Offshore Regulatory Liaison, Engineering and Standards Branch, telephone (703) 787-1600.

**SUPPLEMENTARY INFORMATION:** The final rule published by the Minerals Management Service (MMS) in the *Federal Register* on April 1, 1988 (53 FR 10596), consolidated and restructured within 30 CFR part 250 various existing rules contained in the regulations, Outer Continental Shelf Orders, and Notices to Lessees and Operators. The promulgation of that rule resulted in an error in the sequential numbering of paragraphs that is being corrected by this action.

The MMS is issuing this technical amendment of 30 CFR part 250 as a final rule under the authority of the Outer Continental Shelf Lands Act, as amended.

#### Need for Correction

As published, the final regulations at § 250.153 contain an error that may prove to be misleading and is in need of clarification.

**Author:** This document was prepared by Wanda Stepanek, Engineering and Standards Branch, MMS.

#### List of Subjects in 30 CFR Part 250

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Incorporation by reference,



Investigations, Mineral royalties, Oil and gas development and production, Oil and gas exploration, Oil and gas reserves, Penalties, Pipelines, Public lands—mineral resources, Public lands—rights of way, Reporting and recordkeeping requirements, Sulphur development and production, Sulphur exploration, Surety bonds.

Dated: June 8, 1992,  
Richard Roldan,  
Deputy Assistant Secretary, Land and Minerals Management.

Accordingly, 30 CFR part 250 is corrected by making the following correcting amendments:

#### **PART 250—OIL AND GAS AND SULPHUR OPERATION IN THE OUTER CONTINENTAL SHELF**

1. The authority citation for part 250 continues to read as follows:

Authority: Sec. 204, Pub. L. 95-372, 92 Stat. 629 (43 U.S.C. 1334).

##### **§ 250.153 [Amended]**

2. In § 250.153, redesignate paragraph (c)(4) as paragraph (b)(4).

[FR Doc. 92-14130 Filed 6-16-92; 8:45 am]  
BILLING CODE 4310-MR-M

#### **ENVIRONMENTAL PROTECTION AGENCY**

##### **40 CFR Part 52**

[CO4-2-5350; FRL-4114-4]

#### **Approval and Promulgation of State Implementation Plans; Colorado; PM-10 New Source Review, Emission Trading, Prevention of Significant Deterioration and New Source Review Disapprovals**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This notice approves revisions to the Colorado State Implementation Plan (SIP) submitted by the Governor of Colorado on November 17, 1988. Specifically, revisions were made to the Common Provisions Regulation and Regulation No. 3 as follows: (1) Amendments to provide for the review of new sources to protect the PM-10 national ambient air quality standard (NAAQS), (2) revisions to correct deficiencies and previous EPA disapprovals, as identified in the May 26, 1988 SIP Call (3) revisions to the Emission Reduction Credit (ERC) regulations to create a generic emissions trading rule in accordance with EPA's Emission Trading Policy Statement

(ETPS), and (4) revisions to increase permit processing and annual fees. In addition, the Governor also submitted revisions to Regulations Number 1, 11, and 13, which are addressed in other Federal Register notices.

After a thorough review of the State's revised ERC regulations, EPA has determined that the State's ERC rule does not qualify as a generic emission trading rule. However, the State's ERC rule may be approved in the SIP because the ERC rule specifically requires case-by-case SIP revisions for approval of bubbles.

The 1988 submittal did not address many of the existing deficiencies which the State was required to correct as part of its workplan for the May 26, 1988 SIP Call. EPA requested a commitment from the State to address all outstanding deficiencies and disapprovals before EPA would continue to process any pollutant-specific SIP submittal. On April 29, 1991, the State provided EPA with a schedule of revisions to be made to Regulation No. 3 and the Common Provisions Regulation, to address all remaining deficiencies.

EPA is today approving the State's revisions to Regulation No. 3 and the Common Provisions Regulation, with the condition that the State will correct all deficiencies that it committed to rectify in its April 29, 1991 letter. EPA proposed to approve the revisions to Regulation No. 3 and the Common Provisions Regulation on October 2, 1990 (55 FR 40201). No comments were received concerning this proposal.

EPA is also revising the list of disapprovals of Colorado's New Source Review (NSR) and Prevention of Significant Deterioration (PSD) regulations listed in 40 CFR 52.329 and 40 CFR 52.343, respectively. These disapprovals are being revised to reflect the disapprovals that have changed due to the State's regulatory revisions, and to reflect recodification of some of the provisions, Regulation No. 3 and the Common Provisions Regulation.

**EFFECTIVE DATE:** This action will be effective on July 17, 1992.

**ADDRESSES:** Copies of the documents relevant to this action are available for public inspection between 8 a.m. and 4 p.m., Monday through Friday, at the following offices:

Environmental Protection Agency, Region VIII, Air Programs Branch, 999 18th Street, Denver, Colorado 80202-2405.

Environmental Protection Agency, Public Information Reference Unit, Waterside Mall, 401 M Street, SW., Washington, DC 20460.

Colorado Department of Health, Air Pollution Control Division, Ptarmigan Place, North

Cherry Creek Drive and Colorado Blvd., Denver, Colorado 80209.

**FOR FURTHER INFORMATION CONTACT:**  
Vicki Stamper, Air Programs Branch,  
Environmental Protection Agency,  
Region VIII, 999 18th Street—suite 500,  
Denver, Colorado 80202-2405, (303) 293-1765, (FTS) 330-1765.

#### **SUPPLEMENTARY INFORMATION:**

##### **A. Background of Revisions**

###### **1. PM-10 NAAQS**

The 1977 amendments to the Clean Air Act require EPA to periodically review and, if appropriate, revise the criteria on which each national ambient air quality standard (NAAQS) is based, along with revising the NAAQS themselves. In response to these requirements, EPA published a notice to promulgate revised NAAQS for particulate matter under 10 microns in size (known as PM-10) on July 1, 1987 (52 FR 24634). As a result, the State of Colorado revised its SIP to provide for attainment and maintenance of the new PM-10 NAAQS. Since the SIP must protect both the PM-10 NAAQS and the total suspended particulate (TSP) PSD increments, Colorado's Common Provisions Regulation and Section IV. of Regulation No. 3 were revised to trigger preconstruction review for major new or modified sources which would emit significant amounts of either TSP or PM-10.

###### **2. Deficient Provisions**

Colorado's NSR program was initially approved on October 5, 1979 (44 FR 57405), with the exception of certain provisions which EPA disapproved. The conditional approval was based on the understanding that the deficiencies would be corrected by March 1, 1980. On June 20, 1980, the State submitted revisions to its regulations which resolved the majority of deficiencies listed in the October 5, 1979 notice. However, additional changes were made to Regulation No. 3 which EPA found acceptable. EPA disapproved these unacceptable provisions on April 30, 1981 (46 FR 24182).

These disapprovals were inadvertently removed in a subsequent EPA approval of a revision to the Colorado SIP on December 12, 1983 (49 FR 55285). On June 28, 1985 (50 FR 26734), EPA reinstated these disapprovals of the State's NSR program.

EPA's disapprovals of Colorado's NSR program, listed in 40 CFR 52.329, are as follows: (1) The exemption from the definition of "major modification," in Section L2. of Regulation No. 3, of a



change in an existing oil-fired or gas-fired boiler to the use of a coal/oil mixture, shale oil, or coal-derived fuels, provided that such change would not interfere with reasonable further progress towards attainment of any NAAQS; (2) The definitions of "major modification" and "major stationary source," in Section I. of Regulation No. 3, which provide that fugitive emissions of particulate matter from any of the 26 listed source categories would be excluded in determining whether a source is major, even though quantifiable, if it could be demonstrated that such emissions are of a size and substance that would not adversely affect public health or welfare; (3) The provision in Section IV.H.6. of Regulation No. 3 that allowed the State to grant an applicant a period of greater than six months to bring a source into compliance; and (4) The absence of a provision for "reconstruction" in Regulation No. 3, which might allow certain fugitive emissions to escape review.

Colorado's PSD program was initially approved on September 2, 1986 (51 FR 31125), except for certain sources for which the State's PSD regulations were found to be inadequate. However, the September 2, 1986 Federal Register notice inadvertently disapproved the State's PSD regulations for whole categories of sources. Thus, on February 13, 1987 (52 FR 4622), EPA clarified the disapprovals of the State's PSD regulations. The State PSD regulations were disapproved for the following sources: (1) Sources belonging to any of the 15 source categories, which the State omitted from its regulations, for which fugitive emissions must be included in calculating the potential to emit in the definitions of "major modification" and "major stationary source"; (2) sources avoiding requirements based on exemptions in Colorado regulations that would not be exempt under the Federal Regulations; (3) sources exempt under the definition of "major modification," in Section I.2. of Regulation No. 3, for a change of an existing oil-fired or gas-fired boiler to the use of a coal/oil mixture, shale oil, or coal-derived fuels, provided that such change would not interfere with reasonable further progress towards attainment of any NAAQS; (4) sources exempt under the definition of "stationary source," in the Common Provisions Regulation, due to the State's right-of-way provision; (5) sources that would obtain a Colorado permit based upon the exceedance of a time constraint, per Section IV.F. of Regulation No. 3; (6) sources that would avoid compliance due to the allowance

of a compliance waiver of up to six months in Section IV.H.4. of Regulation No. 3; and (7) sources which were regulated under Section 111 or 112 of the Clean Air Act as of August 7, 1980 with the exception of those for which fugitive emissions are included in calculating potential to emit. These disapprovals are listed in 40 CFR 52.343.

On February 17, 1988, EPA notified the State of numerous deficiencies that existed in its NSR and PSD regulations, in addition to the disapproved provisions listed in 40 CFR 52.329 and 52.343. On May 26, 1988, EPA issued a SIP Call to the State, due to the failure of many areas in the State to attain the NAAQS for ozone and carbon monoxide. In a subsequent letter to the State dated June 17, 1988, EPA reiterated the list of deficiencies and EPA disapprovals from the February 17, 1988 letter and required that the State correct all deficiencies as part of its workplan to address the SIP Call. On August 5, 1988, the State submitted its workplan, in which it committed to revising its NSR and PSD rules in Regulation No. 3 and the Common Provisions Regulation by September 30, 1988. The State planned to address these deficiencies concurrent with its revisions to Regulation No. 3 and the Common Provisions Regulation to protect the newly promulgated PM-10 NAAQS.

### 3. Emission Trading

EPA published an Emission Trading Policy Statement on December 4, 1986 (51 FR 43814). This policy replaced the original bubble policy (44 FR 71779, December 11, 1979). The policy described emission trading and set out the general principles for EPA to use when evaluating bubbles and other emissions trades. The policy also described requirements for approvable generic rules. In order for an emissions trading rule to be generic, it must contain replicable procedures which are sufficient in operation to guarantee that emission limits produced under the rule will not interfere with timely maintenance and attainment of the NAAQS or jeopardize the PSD increments for visibility. A rule is considered replicable when separate reviewers applying the rule to the a given trade would reach the same conclusion. The State revised its ERC rules in Section V. of Regulation No. 3 in order to create a generic rule which would eliminate the need for a SIP revision for approval of bubble transactions.

### 4. Fee Increases

The 1988 submittal also included amendments to Section VI of Colorado

Regulation No. 3 to increase permit processing and annual fees. Annual fees were increased from a fee of \$60 per emission source to a fee of \$157 per emission source. The permit processing fee was increased by approximately \$2 per hour. These fee increases were to cover program costs and are encouraged by the Clean Air Act (CAA).

## B. Evaluation of 1988 Submittal

### 1. PM-NAAQS

EPA evaluated the State's 1988 submittal against the SIP checklist for protection of the PM-10 NAAQS. The State's regulations were found to adequately address all Federal requirements for new source review of PM-10 sources that were in existence at the time of the State submittal.

### 2. Deficient Provisions

#### a. EPA Disapprovals

The November 17, 1988 submittal partially addressed some of the NSR regulation deficiencies, outlined in 40 CFR 52.329, as follows: (1) In Section IV.D.2.b.(i) of Regulation No. 3, the State included a provision in its NSR rules to ensure that reconstructed sources in nonattainment areas meet NSR permitting requirements. (2) In Section I. of Regulation No. 3, the definitions of "major modification" and "major stationary source" were amended to include all fugitive emissions, except fugitive dust, in the determination of potential to emit of a source belonging to any of the 26 listed source categories. In the Federal definitions of "major stationary source" and "major modification," all fugitive emissions, including fugitive dust, are included when determining the potential to emit for any of the 26 listed source categories. Therefore, the State's exemption of fugitive dust from the determination of potential to emit of these sources is not allowed.

The November 17, 1988 submittal also partially addressed some of the PSD regulation deficiencies, outlined in 40 CFR 52.343, as follows: The State has amended the definitions of "major modification" and "major stationary source" in Section I. of Regulation No. 3 to include fugitive emissions in the calculation of potential to emit for the previously excluded 15 source categories and for sources regulated as of August 7, 1980 under section 111 or 112 of the CAA. However, the State regulations exempt fugitive dust from the determination of potential to emit. The Federal definition of fugitive emissions does not exclude fugitive dust, and thus, it can not be exempted in



the determination of potential to emit for any of the listed source categories or for any source regulated as of August 7, 1980 under section 111 or 112 of the CAA.

#### b. Other Deficiencies

Further review of the 1988 submittal found that the State did not address many of the other deficient provisions the State committed to revising in its workplan to address the May 26, 1988 SIP Call.

On March 26, 1991, EPA submitted a letter to the State which listed all of the remaining deficiencies in the State's NSR and PSD regulations. In this letter, EPA requested a commitment from the State to revise Regulation No. 3 and the Common Provisions Regulation and address all deficiencies before EPA would continue to process any pollutant specific SIP submittals. The State responded on April 29, 1991 with a list of the deficiencies that the State had existing authority to correct, and a list of deficiencies that would require legislative action to correct. The State committed to revising Regulation No. 3 and the Common Provisions Regulation to correct all deficiencies that would not require legislative authority and to adopt the revised regulations by October, 1991. The State plans to present a package containing the PSD and NSR deficiencies requiring legislative authority to correct at the 1992 Colorado legislative session. Once the required statute changes are signed by the Governor, the State will proceed with the revisions to its regulations and request a public hearing to adopt the revised regulations.

#### 3. Emission Trading

After reviewing the State's ERC regulation, it was determined that the State's rule was not generic because it did not contain all of the specific requirements necessary to ensure replicability of the rule. In addition, Section V.G.1. of Regulation No. 3 requires SIP revisions for establishment of bubbles. Thus, the Colorado ERC rule cannot be interpreted to be a generic emissions trading rule.

In a May 21, 1991 letter, EPA notified the State that Section V.A.3. of Regulation No. 3, which stated that the purpose of its ERC rule was to reduce the number of trades requiring SIP revisions, conflicted with the requirements in the State's ERC regulations and with EPA's findings that the rule was not approvable as a generic rule. EPA requested a commitment from the State to revise the provision to be consistent with EPA's findings and its ERC regulation. The State responded on

June 12, 1991 with a commitment to delete Section V.A.3. from Regulation No. 3.

In a September 12, 1991 letter, EPA informed the State of the general deficiencies in the State's ERC rule which impede it from being approved by EPA as a generic rule. EPA also notified the State that ERC rule would be approved as an emissions trading rule which requires case-by-case SIP revisions for EPA approval of all bubble transactions.

#### 4. Fee Increases

EPA determined the fee increases were fully approvable.

EPA proposed approval of these revisions to the Colorado SIP on October 2, 1990 (55 FR 40201). No comments were received pursuant to the proposal.

#### Final Action:

EPA is approving the revisions to the Colorado SIP submitted by the Governor on November 17, 1988, because, in general, they are consistent with EPA policy and regulations. However, as discussed above, EPA has previously identified deficiencies in various sections of Regulation No. 3 and the Common Provisions Regulation, and approval of this submittal is based upon the State's commitment to correct these deficiencies.

The revisions being approved include amendments to the NSR and PSD programs in the Common Provisions Regulation and Regulation No. 3 which are necessary to protect the PM-10 NAAQS and provide for consistency with EPA requirements, revisions that address previously outlined deficiencies and EPA disapprovals, amendments to Section V. of Regulation No. 3 to provide for the certification and trading of emission offset credits, and amendments to Section IV. of Regulation No. 3 to increase permit processing and annual fees. The State's emission reduction credit rule is being approved only as a rule which requires case-by-case SIP revisions for EPA approval of all bubbles.

EPA is also revising the disapprovals of Colorado's NSR and PSD programs, outlined in 40 CFR 52.329 and 40 CFR 52.343, respectively. The revised disapprovals of the State's NSR and PSD regulations reflect those disapprovals which the State has partially corrected and State regulations which were recodified during revisions.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be

considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under 5 U.S.C. section 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities (see 46 FR 8709).

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this section must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from the date of publication). Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review must be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (See section 307(b)(2)).

The Agency has reviewed this request for revision of the federally-approved State Implementation Plan for conformance with the provisions of the 1990 Amendments enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements irrespective of the fact that the submittal preceded the date of enactment.

#### List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Note: This document was received at the Office of the Federal Register on June 10, 1992.

Dated: February 28, 1992.  
Kerrigan G. Clough,  
Acting Regional Administrator.

40 CFR part 52, subpart G is amended as follows:



**PART 52 [AMENDED]**

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

**Subpart G—Colorado**

2. Section 52.320 is amended by adding paragraph (c)(54) to read as follows:

**§ 52.320 Identification of plan.**

(c) \* \* \*

(54) On November 17, 1988 the Governor submitted revisions to Regulation No. 3 and the Common Provisions Regulation which included: Provisions for the review of new sources to protect the PM-10 national ambient air quality standards (NAAQS) and for consistency with EPA requirements;

Amendments to address deficiencies and previous EPA disapprovals as identified in the May 26, 1988 SIP Call;

Provisions for the certification and trading of emission offset credits; and

Amendments to increase permit processing and annual fees.

(i) Incorporation by reference

(A) Regulation No. 3: Sections I.B.2.c.(i)-(vi), I.B.3.a., II.B.1.d & e, II.B.3.c., II.C.1.h., II.C.3., III.A.1., IV.C.4.e., IV.C.4.f.(i) & (iv)-(v), IV.C.6-10, IV.D.1.e., IV.D.2.a.(iv), IV.D.2.b., IV.D.2.c.(i) & (ii), IV.D.3.a.(vi), IV.D.3.b.(i)(D), IV.D.3.b.(iii)(A)(3), (5), (7), & (11), IV.D.3.d.(ii), IV.D.3.e., IV.G.3., IV.H.7., V.C-I, VI.A.2., VI.C.1., VI.D., VII.A., VIII.D., IX.K., XIII.B., XIV.B.1, XIV.B.4.c.; and the Common Provisions Regulation: Section I.G., definitions of "Best Available Control Technology," "Complete," "Construction," "Enforceable," "Fixed Capital Cost," "Lowest Achievable Emission Rate (LAER)," "Modification," "Net Emissions Increase," "Particulate Matter," "Particulate Matter Emissions," "PM10," "PM10 Emissions," "Reconstruction," "Significant," "Total Suspended Particulate;" revised August 18, 1988, effective September 30, 1988.

(ii) Additional Material

(A) Letter dated April 29, 1991 from the Colorado Air Pollution Control Division to EPA.

3. Section 52.329 is amended by revising paragraphs (a)(1) through (a)(3) and removing paragraph (a)(4) to read as follows:

**§ 52.329 Rules and regulations.**

(a) \* \* \*

(1) Section I.B.2.c.(vii), which exempts from "major modification" a change of an existing oil-fired or gas-fired boiler to

the use of a coal/oil mixture, shale oil, or coal derived fuels, provided that such change would not interfere with reasonable further progress toward attainment of any National Ambient Air Quality Standard.

(2) Sections I.B.2.e. and I.B.3.f., the definitions of "major modification" and "major stationary source" which provide that fugitive dust from any of the 26 listed source categories or any other stationary source category which, as of August 7, 1980 was regulated under Section 111 or Section 112 of the Act, will be excluded in calculating the potential to emit of a source or modification.

(3) Section IV.H.6., that allows the Division to grant an applicant a period of greater than six months to bring a source into compliance.

4. Section 52.343 is amended by revising paragraphs (a)(1), (a)(3), and (a)(8) to read as follows:

**§ 52.343 Significant deterioration of air quality.**

(a) \* \* \*

(1) Any source belonging to any of the 26 listed source categories for which fugitive dust is included in calculating potential to emit under 40 CFR 52.21 unless the source is required to obtain a Colorado PSD permit pursuant to regulations identified in 52.320(c) (36) and (37).

(3) Sources exempt under Regulation 3.I.B.2.c.vii.

(8) Sources which were regulated under Section 111 or 112 of the Clean Air Act as of August 7, 1980 for which fugitive dust is included in calculating potential to emit under 40 CFR 52.21 unless the source is required to obtain a Colorado PSD permit pursuant to regulations identified in § 52.320(c) 36 and 37.

[FR Doc. 92-14006 Filed 6-16-92; 8:45 am]  
BILLING CODE 6560-50-M.

**DEPARTMENT OF THE INTERIOR****Bureau of Land Management****43-CFR Public Land Order 6933**

[NM-930-4214-11; NMNM 055653]

**Partial Revocation of Public Land Order No. 2051; New Mexico**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public Land Order.

**SUMMARY:** This order revokes a public land order insofar as it affects 175.35 acres of public land withdrawn for New Mexico State University (formerly New Mexico College of Agriculture and Mechanic Arts) for research programs in connection with Federal programs. The land is no longer needed for this purpose, and the revocation is needed to permit disposal of the land through sale as directed by Public Law 100-559.

**EFFECTIVE DATE:** June 17, 1992.

**FOR FURTHER INFORMATION CONTACT:**

Georgiana E. Armijo, BLM New Mexico State Office, P.O. Box 27115, Santa Fe, New Mexico 87502-7115, 505-438-7594.

By virtue of the authority vested in the Secretary of the Interior by Section 502 of Public Law 100-559, it is ordered as follows:

1. Public Land Order No. 2051, which withdrew public land for use by the New Mexico College of Agriculture and Mechanic Arts, now New Mexico State University, for research programs in connection with Federal programs, is hereby revoked insofar as it affects the following described land:

New Mexico Principal Meridian

T. 23 S., R. 2 E.,

Sec. 26, lots 4 to 7, inclusive, and  
W½NW¼NE¼.

The area described contains 175.35 acres in Dona Ana County.

2. The land described above is hereby made available for conveyance as authorized and directed by section 502 of Public Law 100-559.

Dated: June 10, 1992.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 92-14182 Filed 6-16-92; 8:45 am]

BILLING CODE 4310-FB-M

**FEDERAL EMERGENCY MANAGEMENT AGENCY****44 CFR Part 64**

[Docket No. FEMA-7543]

**List of Communities Eligible for the Sale of Flood Insurance**

**AGENCY:** Federal Insurance Administration, FEMA.

**ACTION:** Final rule.

**SUMMARY:** This rule identifies communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes



the sale of flood insurance to owners of property located in the communities listed.

**EFFECTIVE DATE:** The dates listed in the third column of the table.

**ADDRESSES:** Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIP at: Post Office Box 457, Lanham, MD 20796, (800) 638-7418.

**FOR FURTHER INFORMATION CONTACT:** Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, 500 C Street, SW., room 417, Washington, DC 20472, (202) 646-2717.

**SUPPLEMENTARY INFORMATION:** The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas

in some of these communities by publishing a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, section 102 of the Flood Disaster Protection Act of 1973, as amended 42 U.S.C. 4012(a), requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard areas shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

#### National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

#### Regulatory Flexibility Act

This rule is not a major rule under Executive Order 12291, Federal Regulation, February 17, 1981. No regulatory impact analysis has been prepared.

#### Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act.

#### Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

#### Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

#### List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains  
Accordingly, 44 CFR part 64 is amended as follows:

#### PART 64—[AMENDED]

1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

#### § 64.6 [Amended]

2. The tables published under the authority of § 64.4 are amended as follows:

State and location	Community No.	Effective date of authorization/cancellation of sale of flood insurance in the community	Current effective map date
<b>New Eligibles—Emergency Program</b>			
Michigan: Grayling, city of, Crawford County	260901	May 21, 1992	
Texas: Woodcreek, city of, Hays County	481641	.....do.....	
Alaska: Emmonak, city of, Unorganized Borough	020125	May 22, 1992	
<b>New Eligibles—Emergency Program</b>			
North Carolina: Cramerton, town of, Gaston County	370321	May 21, 1992	Mar. 4, 1980.
Texas: Ingleside on The Bay, city of, San Patricio County. <sup>1</sup>	481645	May 11, 1992	
<b>Reinstatement—Emergency Program</b>			
Michigan: Haynes, township of, Alcona County	260274	June 12, 1974, Emergency; May 1, 1992, Regular; May 21, 1992 Suspension; May 21, 1992, Reinstatement.	May 1, 1992.
Vermont: Roxbury, town of, Washington County	500276	July 9, 1975, Emergency; Jan. 17, 1986, Regular; June 18, 1990, Suspension; May 28, 1992, Reinstatement.	Jan. 17, 1986.
<b>Withdrawn—Regular Program</b>			
Michigan: Silver Creek, township of, Cass County	260369	November 18, 1977, Emergency; April 1, 1988, Regular; May 1, 1992, Withdrawn.	April 1, 1988.
<b>Minimal Conversions—Region V</b>			
Michigan: Beaugrand, township of, Cheboygan County	260646	May 1, 1992, suspension withdrawn	May 1, 1992.
<b>Regular Conversions—Region II</b>			
New York: Newstead town of, Erie County	360251	.....do.....	May 4, 1992.
<b>Region IV</b>			
Georgia:			
Athens, city of, Clarke County	130040	.....do.....	May 4, 1992.
Gwinnett County, Unincorporated areas	130322	.....do.....	May 4, 1992.
<b>Region VI</b>			
Oklahoma: Sallisaw, city of, Sequoyah County	400199	.....do.....	May 4, 1992.
Missouri: Cass County, unincorporated areas	290783	.....do.....	May 4, 1992.
<b>Region I</b>			
Connecticut: Ansonia, city of, New Haven County	090079	May 18, 1992, Suspension Withdrawn	May 18, 1992.



State and location	Community No.	Effective date of authorization/cancellation of sale of flood insurance in the community	Current effective map date
<b>Region II</b>			
New York:			
Perinton, town of, Monroe County.....	360428	.....do.....	May 18, 1992.
Willsboro, town of, Essex County.....	360267	.....do.....	May 18, 1992.
<b>Region III</b>			
Virginia:			
Stuart, town of, Partick County.....	510111	.....do.....	May 3, 1990.
Appomattox County, Unincorporated areas.....	510011	.....do.....	July 17, 1978.
Bedford County, Unincorporated areas.....	510016	.....do.....	Sept. 29, 1978.
<b>Regular VII</b>			
Iowa: Griswood, city of, Cass County.....	190346	.....do.....	May 18, 1992.
<b>Region IX</b>			
Arizona: Yavapai County, Unincorporated areas.....	040093	.....do.....	May 18, 1992.

<sup>1</sup> Use the San Patricio County (485506) FIRM.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension; Rein.—Reinstatement; With.—Withdrawn.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Issued: June 10, 1992.

C.M. "Bud" Schauerte,  
Administrator, Federal Insurance  
Administration.

[FR Doc. 92-14155 Filed 6-16-92; 8:45 am]

BILLING CODE 6718-21-M

#### 44 CFR Part 64

[Docket No. FEMA-7542]

#### Suspension of Community Eligibility

**AGENCY:** Federal Insurance  
Administration, FEMA.

**ACTION:** Final rule.

**SUMMARY:** This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the *Federal Register*.

**EFFECTIVE DATES:** The effective date of each community's suspension is the third date ("Susp.") listed in the third column of the following tables.

**ADDRESSES:** If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

**FOR FURTHER INFORMATION CONTACT:** Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, 500 C

Street, SW., room 417, Washington, DC 20472, (202) 646-2717.

**SUPPLEMENTARY INFORMATION:** The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 *et seq.*, unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the fourth column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the *Federal Register*.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fifth column of the table. No direct Federal financial assistance

(except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the FEMA's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

#### National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

#### Regulatory Flexibility Act

This rule is not a major rule under Executive Order 12291, February 17, 1981. No regulatory impact analysis has been prepared.



**Paperwork Reduction Act**

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act.

**Executive Order 12612, Federalism**

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

**Executive Order 12778, Civil Justice Reform**

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

**List of Subjects in 44 CFR Part 64**

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

**PART 64—[AMENDED]**

1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

**§ 64.6 [Amended]**

2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date of authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
<b>Regular Program Conversions</b>				
<b>Region III</b>				
West Virgin:				
Harrison County, unincorporated areas	540053	Aug. 17, 1976, Emerg.; July 4, 1988, Reg.; July 2, 1992, Susp.	July 2, 1992.....	July 2, 1992.
Marion County, unincorporated areas	540097	Aug. 21, 1975, Emerg.; July 4, 1988, Reg.; July 2, 1992, Susp.	.....do.....	Do.
Somerset, township of, Somerset County	422055	July 19, 1976, Emerg.; May 17, 1990, Reg.; July 2, 1992, Susp.	.....do.....	Do.
Maryland: Secretary, town of, Dorchester County	240123	June 13, 1975, Emerg.; Dec. 19, 1980, Reg.; May 4, 1989, Susp.; Sept. 27, 1989, Rein.; July 2, 1992, Susp.	Apr. 2, 1992.....	Do.
Pennsylvania: Greene, township of, Pike County	421965	Aug. 6, 1975, Emerg.; Oct. 18, 1988, Reg.; July 2, 1992, Susp.	.....do.....	Do.
<b>Region VI</b>				
Arkansas: Ward, city of, Lonoke County	050372	Sept. 8, 1975, Emerg.; Sept. 5, 1978, Reg.; July 2, 1992, Susp.	July 2, 1992.....	Do.
Texas: Brazos County, unincorporated areas	481195	Jan. 13, 1986, Emerg.; July 2, 1992, Reg.; July 2, 1992, Susp.	.....do.....	Do.
Oklahoma:				
Binger, town of, Caddo County	400530	Sept. 16, 1975, Emerg.; Nov. 19, 1987, Reg.; July 2, 1992, Susp.	Sept. 27, 1991.....	Do.
Fort Cobb, town of, Caddo County	400022	Nov. 1, 1974, Emerg.; Sept. 27, 1991, Reg.; July 2, 1992, Susp.	.....do.....	Do.
Lookeba, town of, Caddo County	400025	Feb. 18, 1976, Emerg.; July 13, 1982, Reg.; July 2, 1992, Susp.	.....do.....	Do.
<b>Region I</b>				
New Hampshire:				
Grantham, town of, Sullivan County	330158	May 24, 1976, Emerg.; Sept. 1, 1989, Reg.; July 15, 1992, Susp.	July 15, 1992.....	July 15, 1992.
South Hampton, town of, Rockingham County	330193	Sept. 2, 1987, Emerg.; June 1, 1989, Reg.; July 15, 1992, Susp.	.....do.....	Do.
<b>Region IV</b>				
Florida: Manatee County, unincorporated areas	120153	June 25, 1971, Emerg.; June 25, 1971, Reg.; July 15, 1992, Susp.	.....do.....	Do.
<b>Region VIII</b>				
Colorado:				
Fruita, town of, Mesa County	080194	June 5, 1975, Emerg.; Dec. 1, 1981, Reg.; July 15, 1992, Susp.	.....do.....	Do.
Grand Junction, city of, Mesa County	080117	Oct. 13, 1978, Emerg.; Jan. 6, 1983, Reg.; July 15, 1992, Susp.	.....do.....	Do.
Mesa County, unincorporated areas	080115	July 26, 1973, Emerg.; July 3, 1978, Reg.; July 15, 1992, Susp.	.....do.....	Do.
Palisade, town of, Mesa County	080198	Sept. 27, 1982, Emerg.; Feb. 5, 1986, Reg.; July 15, 1992, Susp.	.....do.....	Do.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.



(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Issued: June 10, 1992.

C.M. "Bud" Schauerte,  
Administrator, Federal Insurance  
Administration.

[FR Doc. 92-14156 Filed 6-16-92; 8:45 am]

BILLING CODE 6718-21-M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 642

[Docket No. 920128-2142]

### Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic

**AGENCY:** National Marine Fisheries  
Service (NMFS), NOAA, Commerce.

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this final rule to revise the permitting requirements applicable to vessels in the fishery for coastal migratory pelagic fish. Specifically, this final rule (1) removes from the regulations the specification of an April-through-March permit year; (2) conditions the reissuance of a permit on the receipt of all required reports for the vessel; (3) removes from the regulations the specification of the permit fee; and (4) otherwise clarifies existing policies and procedures for issuing vessel permits. These revisions were previously published as an interim final rule with request for comments. The intended effects of this final rule are to standardize and simplify, to the extent possible, the permitting requirements applicable to participants in the federally managed fisheries off the South Atlantic and Gulf of Mexico states.

**EFFECTIVE DATE:** June 17, 1992.

**FOR FURTHER INFORMATION CONTACT:**  
W. Perry Allen, 813-893-3722.

**SUPPLEMENTARY INFORMATION:** The fishery for coastal migratory pelagic fish is managed under the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP) and its implementing regulations at 50 CFR part 642 under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

The regulations at 50 CFR 642.4 require (1) an owner or operator of a fishing vessel to obtain a vessel permit in order for persons aboard that vessel to fish for king or Spanish mackerel in the exclusive economic zone (EEZ)

under the commercial allocations; and (2) an owner or operator of a charter vessel to obtain a charter vessel permit in order for persons aboard that vessel to fish for coastal migratory pelagic fish in the EEZ. This final rule revises the permitting requirements to standardize them, to the extent possible, with the current permitting requirements in other fisheries, including the reef fish fishery of the Gulf of Mexico and the snapper-grouper fishery off the South Atlantic states, and with the proposed permitting requirements for the Atlantic shark fishery. The goal of this standardization is to reduce the occasions when an applicant is required to apply for a Federal fisheries permit. In lieu of an application for a permit for each fishery submitted at different times during a year, an applicant would apply once each year, based on the month of birth of the owner, for all fisheries in which he desires a permit. The total permit fees paid by an applicant would be reduced accordingly.

Detailed descriptions of and rationales for the revisions to the permitting requirements were included in the interim final rule (57 FR 11582, April 6, 1992) and are not repeated here.

#### Comments, Responses, and Changes to the Interim Final Rule

Two commenters asked what the permit expiration date would be for a vessel owned by a corporation, i.e., what month would be the equivalent of the birth month of a vessel owner. As is the case for vessel permits issued in the reef fish and snapper-grouper fisheries, permits for corporate-owned vessels in the coastal migratory pelagic fishery expire at the end of the month during which the corporation was formed. The date a corporation was formed has been collected from corporate owners on applications for permits in these fisheries. For clarification, this final rule specifies that, for a corporate-owner vessel, the date the corporation was formed is required on an application in lieu of the date of birth of the vessel owner.

#### Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has determined that this final rule is (1) necessary for the conservation and management of the fishery for coastal migratory pelagic fish; (2) consistent with the Magnuson Act and other applicable Federal law; and (3) not a "major rule" under Executive Order 12291.

The Regulatory Flexibility Act does not apply to this rule because the rule was not required to be promulgated as a

proposed rule before issuance as a final rule by section 553 of the Administrative Procedure Act or by any other law. Accordingly, neither an initial nor a final regulatory flexibility analysis has been prepared.

This final rule does not change any of the factors considered in the environmental impact statement prepared for the FMP or in the environmental assessments prepared for its amendments; accordingly, this action is categorically excluded from the requirement to prepare an environmental assessment, as specified in NOAA Administrative Order 216-6.

In the final rules implementing the FMP and its amendments, NMFS concluded that, to the maximum extent practicable, the FMP and amendments are consistent with the approved coastal zone management programs of all the affected states. Since this final rule does not directly affect the coastal zone in a manner not already fully evaluated in the FMP and amendment and their consistency determinations, a new consistency determination under the Coastal Zone Management Act is not required.

This final rule restates the collection-of-information requirement for applications for permits, which is subject to the Paperwork Reduction Act. That requirement was previously approved and OMB Control No. 0648-0205 applies. That requirement has a public reporting burden estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of the collection of information, including suggestions for reducing the burden, to Edward E. Burgess, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702 and to the Office of Information and Regulatory Affairs, OMB, Washington, DC 20503.

This final rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

The Assistant Administrator, pursuant to section 553(d)(3) of the Administrative Procedure Act, finds that, because this final rule does not substantively change the procedures that have been in effect since April 1, 1992, the effective date of the interim final rule, good cause exists for making this rule effective immediately.



**List of Subjects in 50 CFR Part 642**

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: June 11, 1992.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries,  
National Marine Fisheries Service.

For the reasons set forth in the preamble, the interim final rule amending 50 CFR 642.4, 642.5(b), and 642.7(f) and (v), which was published at 57 FR 11582 on April 6, 1992, is adopted as final with the following change:

**PART 642—COASTAL MIGRATORY PELAGIC RESOURCES OF THE GULF OF MEXICO AND SOUTH ATLANTIC**

1. The authority citation for part 642 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 642.4, paragraph (b)(2)(v) is revised to read as follows:

**§ 642.4 Permits and fees.**

• • • • •

(b) • • •

(2) • • •

(v) Social Security number and date of birth of the applicant and the owner (if the owner is a corporation, in lieu of the social security number, provide the employer identification number, if one has been assigned by the Internal Revenue Service, and, in lieu of the date of birth, provide the date the corporation was formed);

• • • • •

[FR Doc. 92-141331 Filed 6-14-92; 8:45 am]

BILLING CODE 3510-22-M



## Proposed Rules

Federal Register

Vol. 57, No. 117

Wednesday, June 17, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

### NUCLEAR REGULATORY COMMISSION

#### 10 CFR Part 100

#### Revision of Appendix A

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of meeting.

**SUMMARY:** The Nuclear Regulatory Commission staff will meet with the staff of the Nuclear Management and Resources Council (NUMARC) and other industry representatives to discuss the revision of appendix A, "Seismic and Geologic Siting Criteria for Nuclear Power Plants," to 10 CFR part 100.

**DATES:** July 10, 1992, 1 p.m.

**ADDRESSES:** 11555 Rockville Pike, Room: 1 F7/9, Rockville, Maryland.

**FOR FURTHER INFORMATION CONTACT:** Dr. Andrew J. Murphy, Chief, Structural and Seismic Engineering Branch, Office of Nuclear Regulatory Research, Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 492-3860.

**SUPPLEMENTARY INFORMATION:** Appendix A to 10 CFR part 100 describes the seismic and geologic siting and earthquake engineering criteria for nuclear power plants. Because of the advances in the state-of-the-art since the publication of the regulation (effective December 13, 1973), a need for the revision has been established. Staff progress in the revision of appendix A to 10 CFR part 100 has been discussed in public meetings with NUMARC and other industry representatives on February 4, 1992 and April 23, 1992.

The purpose of this meeting is to meet with NUMARC and other industry representatives to discuss industry recommended alternatives to the draft proposed revision of appendix A to 10 CFR part 100 that was placed in the NRC Public Document Room at 2120 L Street NW. (Lower Level), Washington, DC (Memorandum from Lawrence C. Shao to Raymond F. Fraley, dated January 21, 1992, Subject: Revision of

Appendix A to 10 CFR Part 100—Geological and Seismological Siting Criteria for Nuclear Power Plants). No specific agenda is being proposed.

The meeting cited herein is in addition to the meeting scheduled for June 17, 1992 (57 FR 23548, June 4, 1992).

Dated at Rockville, Maryland, this 8th day of June, 1992, for the Nuclear Regulatory Commission.

Lawrence C. Shao,

Director, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 92-14218 Filed 6-16-92; 8:45 am]

BILLING CODE 7590-01-M

### FARM CREDIT ADMINISTRATION

#### 12 CFR Parts 607 and 618

#### RIN 3052-AB19

#### Assessment and Apportionment of Administrative Expenses; General Provisions; FCA Assessment Regulations Negotiated Rulemaking Committee

**AGENCY:** Farm Credit Administration (FCA).

**ACTION:** Notice of meetings and time change for previously announced meeting.

**SUMMARY:** In accordance with the Negotiated Rulemaking Act and the Federal Advisory Committee Act, the FCA hereby gives notice of the third meeting of the FCA Assessment Regulations Negotiated Rulemaking Committee, which has been convened to negotiate and develop proposed amendments to FCA assessment regulations. These regulations prescribe the method for assessing Farm Credit System (System) institutions for the FCA's annual expenses in administering the Farm Credit Act of 1971. The FCA is also giving notice of a change in the starting time of its previously announced committee meeting for June 22, 1992 from 9 a.m. to 8:30 a.m.

**DATES:** The third meeting of the Assessment Regulations Negotiated Rulemaking Committee will be a 3-day session. The meeting will be on July 7, 1992 from 8:30 a.m. to 5 p.m., continuing on July 8, 1992 from 8:30 a.m. to 5 p.m., and on July 9, 1992 from 8:30 a.m. to 3:30 p.m.

The starting time of the previously announced (See 57 FR 21755, May 22,

1992) June 22, 1992 meeting has been changed from 9 a.m. to 8:30 a.m.

**ADDRESSES:** The Committee will meet in Rooms 1101-02 of the FCA, 1501 Farm Credit Drive, McLean, Virginia.

#### FOR FURTHER INFORMATION CONTACT:

Robert S. Child, Senior Credit Specialist, Office of Examination, Farm Credit Administration, McLean, Virginia 22102-5090, (703) 883-4189, TDD (703) 883-4444,

or

William L. Larsen, Senior Attorney, Regulatory and Legislative Law Division, Office of General Counsel, Farm Credit Administration, McLean, Virginia 22102-5090, (703) 883-4020, TDD (703) 883-4444.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Negotiated Rulemaking Act of 1990, 5 U.S.C. 581, 585, and the Federal Advisory Committee Act, 5 U.S.C. App. 2, section 10, the FCA gives notice of the third meeting of its Assessment Regulations Negotiated Rulemaking Committee. The meetings will be held at the FCA's McLean, Virginia headquarters and will be open to the public.

The Committee is meeting to develop and negotiate proposed amendments to FCA assessment regulations. The agenda for the third meeting will be shaped by the progress of discussions and negotiations at the second meeting and will continue to focus on development of an assessment formula for banks, associations and banks for cooperatives of the Farm Credit System (System). Tentatively, the Committee is scheduled to meet biweekly for 2-day sessions continuing through approximately August 4, 1992, subject to adjustment by the Committee if needed.

On May 6, 1992, the FCA published notice of its intent to establish a negotiated rulemaking committee to develop and negotiate proposed amendments to its assessment regulations. 57 FR 19405. The Notice of Intent describes the negotiated rulemaking process and how it will apply to development of proposed assessment regulations.

The assessment regulations prescribe the method for assessing System institutions for the FCA's annual expenses in administering the Farm Credit Act of 1971, 12 U.S.C. 2001 *et seq.* A complete discussion of the current assessment procedures and the need for new regulations can be found in the



FCA's Notice of Proposed Rulemaking published at 56 FR 13424, April 2, 1991.

The FCA also gives notice that the starting time of the previously announced (See 57 FR 21755, May 22, 1992) second meeting of the Committee, scheduled for June 22, 1992, has been changed by the Committee from 9 a.m. to 8:30 a.m. As permitted by General Services Administration Federal Advisory Committee Act regulations (See 41 CFR 101-6.1015(b)(2)), this meeting notice change will appear in the *Federal Register* less than 15 days before the meeting. This is due to the fact that the Committee made this schedule change at its June 9, 1992 meeting, only 13 days before the June 22 meeting. The FCA believes that all members of the public who attended the June 8-9, 1992 meeting received notice of the meeting time change. In addition, the FCA will post public notice of the meeting time change.

Dated: June 12, 1992.

Curtis M. Anderson,  
Secretary, Farm Credit Administration Board.  
[FR Doc. 92-14164 Filed 6-16-92; 8:45 am]  
BILLING CODE 6705-01-M

## EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

### 29 CFR Part 1602

#### Records and Reports for State and Local Governments

**AGENCY:** Equal Employment Opportunity Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Equal Employment Opportunity Commission is proposing an amendment to the reporting regulations for state and local governments, which would reduce the filing requirement from once a year to once every other year for those political jurisdictions subject to the reporting requirements covered by this regulation.

Such jurisdictions include jurisdictions, other than public school districts, with 100 or more full-time employees and similar jurisdictions with from 15 to 99 full-time employees from whom the Commission requests the filing of reports. The Commission is publishing elsewhere in this issue of the *Federal Register* a rule waiving the requirement for filing such reports for 1992. Starting with the 1993 survey year and every odd-number year thereafter, those jurisdictions will be required to file EEO-4 reports. The Commission takes this action for budgetary reasons. The Commission has also determined

that the reduction in reporting requirements will not substantially affect the utility of the information being collected. At the same time, it will cut in half the number of hours employers will spend in complying with this reporting requirement and thus the change will result in significant cost reductions. Since this change involves a decreased reporting requirement, it will benefit rather than harm public jurisdictions.

**DATES:** Written comments must be submitted on or before August 17, 1992. The Commission will publish a separate notice of public hearing after the comments have been received.

**ADDRESSES:** Comments should be submitted to Frances M. Hart, Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 10th Floor, 1801 L Street, NW., Washington, DC 20507. Copies of comments submitted by the public will be available for review at the Commission's library, room 6502, 1801 L Street, NW., Washington, DC between the hours of 9:30 a.m. and 5 p.m. Any comments should additionally be filed with the Office of Management and Budget (See "Paperwork Reduction Act" below).

As a convenience to commenters, the Executive Secretariat will accept public comments transmitted by facsimile ("FAX") machine. The telephone number of the FAX receiver is (202) 663-4114. (This is not a toll-free number.) Only public comments of six or fewer pages will be accepted via FAX transmittal. This limitation is necessary to assure access to the equipment. Comments sent by FAX in excess of six pages will not be accepted. Receipt of FAX transmittals will not be acknowledge, except that the sender may request confirmation of receipt by calling the Executive Secretariat Staff at (202) 663-4078. (This is not a toll-free number.)

**FOR FURTHER INFORMATION CONTACT:** Joachim Neckere, Director, Program Research and Surveys Division at (202) 663-4958 (voice) or (202) 708-9300 (TDD).

**SUPPLEMENTARY INFORMATION:** Section 709(c) of title VII of the Civil Rights Act of 1964, as amended, requires employers to make and keep records relevant to a determination of whether unlawful employment practices have been or are being committed and to make reports therefrom as required by the Equal Employment Opportunity Commission. Accordingly, the Commission has issued regulations which set forth the reporting requirements for various kinds of employers. State and local government jurisdictions have been required to

submit annual reports to the Commission since 1973. The change to biennial reporting is intended to reduce the cost and reporting burden on such jurisdictions as required under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* However, the recordkeeping requirements of § 1602.30 remain unchanged. After the end of the written comment period, the Commission proposes to consider those comments for a period of at least two weeks and to adopt the final regulations thereafter.

#### Paperwork Reduction Act

This proposed change involves a reduction of cost and reporting burden to respondents. The Office of Management and Budget (OMB) has been apprised of this proposal. Organizations or individuals desiring to submit comments for consideration by OMB on this change should address them to the Office of Information and Regulatory Affairs, OMB, room 3002, New Executive Office Building, Washington, DC 20503; Attention: Joseph Lackey.

The Commission also certifies under 5 U.S.C. 605(b) enacted by the Regulatory Flexibility Act (Pub. L. 96-354); that this proposed change will not result in a significant impact on small employers, and that a regulatory flexibility analysis therefore is not required.

#### List of Subjects in Part 1602

Administrative practice and procedure, Equal employment opportunity, Intergovernmental relations, Reporting and recordkeeping requirements.

Accordingly, it is proposed to amend 29 CFR part 1602 as follows:

1. The authority citation for part 1602 continues to read as follows:

Authority: 42 U.S.C. 2000e-8, 2000e-12; 44 U.S.C. 3501 *et seq.*; 42 U.S.C. 12117.

2. It is proposed to revise § 1602.32 to read as follows:

#### § 1602.32 Requirement for filing and preserving copy of report.

On or before September 30, 1993, and biennially thereafter, certain political jurisdictions subject to title VII of the Civil Rights Act of 1964, as amended, shall file with the Commission or its delegate executed copies of "State and Local Government Information Report EEO-4" in conformity with the direction set forth in the form and accompanying instructions. The political jurisdictions covered by this section are those which have 100 or more employees, and those other political jurisdictions which have



15 or more employees from whom the Commission requests the filing of reports. Every such political jurisdiction shall retain at all times a copy of the most recently filed EEO-4 at the central office of the political jurisdiction for a period of 3 years and shall make the same available if requested by an officer, agent, or employee of the Commission under the authority of section 710 of title VII, as amended.

For the Commission.

Evan J. Kemp, Jr.,

Chairman.

[FR Doc. 92-14160 Filed 6-16-92; 8:45 am]

BILLING CODE 6750-01-M

## DEPARTMENT OF THE INTERIOR

### Minerals Management Service

30 CFR Parts 201, 202, 203, 206, 207, 208, 210, 212, 215, 216, 217, 218, 219, 220, 228, 229, 230, 232, 233, 234, 241, 242, 243

#### Request for Information for Improvements to Regulations

**AGENCY:** Minerals Management Service (MMS), Interior.

**ACTION:** Assessment of rules.

**SUMMARY:** The evaluation of Minerals Management Service (MMS) Royalty Management Program (RMP) regulations is a continuous process, and information from the public is an important part of the evaluation process. The MMS rules for product valuation were substantially modified in 1988 based on an effort started in January 1985 with creation of the RMP Advisory Committee. It has been several years since most of the regulations in 30 CFR Parts 201 through 243 were published, and public comments are requested to help MMS assess where improvements to rules can be made. This notice solicits public comments on RMP's regulatory programs.

**DATES:** Comments must be received or postmarked by August 17, 1992.

**ADDRESSES:** Written comments regarding this notice should be mailed or delivered to the Minerals Management Service, Royalty Management Program, Rules and Procedures Branch, Denver Federal Center, Building 85, P.O. Box 25165, Mail Stop 3910, Denver, Colorado 80225-0165, Attention: Dennis C. Whitcomb, telephone (303) 231-3432.

**FOR FURTHER INFORMATION CONTACT:** Dennis C. Whitcomb, Chief, Rules and Procedures Branch, telephone (303) 231-3432.

**SUPPLEMENTARY INFORMATION:** The Department has been collecting bonuses, rents, royalties, and other revenues from Federal and Indian mineral leases since 1921. The MMS has been responsible for this function since its establishment in 1982. The mission of RMP is to ensure that all revenues, approximately \$4 billion annually, from Federal and Indian leases are efficiently, effectively, and accurately collected, accounted for, verified, and disbursed. The revenue is disbursed to the appropriate recipients in a timely manner and in accordance with existing laws, regulations, lease terms, orders, and notices. These recipients include the U.S. Department of the Treasury, State, Indians, and Other Federal agencies.

To accomplish the RMP mission, supporting legislation and implementing regulations are necessary to assure compliance in this area. The implementing regulations for RMP are contained in title 30 of the Code of Federal Regulations, chapter II, subchapter A, and listed below by part.

Part	Title
201	General.
202	Royalties.
203	Relief or reduction in royalty rates.
206	Product valuation.
207	Sales agreements or contracts governing the disposal of lease products.
208	Sales of Federal royalty oil.
210	Forms and reports.
212	Records and files maintenance.
215	Accounting and auditing standards [Reserved].
216	Production accounting.
217	Audits and inspections.
218	Collection of royalties, rentals, bonuses, and other monies due the Federal Government.
219	Distribution and disbursement of royalties, rentals, and bonuses.
220	Accounting procedures for determining net profit share payment for Outer Continental Shelf oil and gas leases.
228	Cooperative activities with States and Indian tribes.
229	Delegation to States.
230	Royalty refunds [Reserved].
232	Interest payments [Reserved].
233	Escrow and investments [Reserved].
234	Bonding-payment liability [Reserved].
241	Penalties.
242	Notices and orders [Reserved].
243	Appeals-Royalty Management Program.

This notice solicits public comments on existing RMP regulations, referenced above, and on new RMP regulations that are being developed. Regulatory initiatives that are in the process of being developed are described in the Department's Semiannual Regulatory Agenda which was published in the Federal Register on April 27, 1992 (57 FR 16855). Comments on existing legislation would be helpful in assessing RMP's effectiveness. In particular, we would appreciate comments on legislation and

regulations that substantially impede economic growth, may no longer be necessary, are unnecessarily burdensome, impose needless costs or administration. Furthermore, we would appreciate assistance in identifying areas in which there are overlapping, duplicative, inconsistent, or conflicting requirements with other Federal, State, or local governmental rules. In some cases, important innovations, technologies, or new markets may have been created since the rules were proposed and/or implemented. We are soliciting new comments on the areas identified above. It is not necessary to submit the same comments provided on previous rulemakings.

The Bureau will use the information received to develop new legislative and regulatory initiatives in those areas where improvements are possible and needed. New initiatives would be coordinated with other Federal and State government agencies, Indian representatives, and industry groups. Also, the public will be given the opportunity to present their viewpoints on specific initiatives to improve the legislative and regulatory programs.

Dated: June 8, 1992.

Daniel Talbot,

Deputy Assistant Secretary for Land and Minerals Management.

[FR Doc. 92-14131 Filed 6-16-92; 8:45 am]

BILLING CODE 4310-MR-M

## FEDERAL MARITIME COMMISSION

### 46 CFR Part 581

[Docket No. 92-21]

#### Amendments to Service Contracts

**AGENCY:** Federal Maritime Commission.

**ACTION:** Availability of finding of no significant impact.

**SUMMARY:** The Commission has completed an environmental assessment of a proposed rule in Docket No. 92-21 and found that the resolution of this proceeding will not have a significant impact on the quality of the human environment.

**DATES:** Petitions for review are due on or before June 29, 1992.

**ADDRESSES:** Petitions for review (Original and 15 copies) to: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573-0001.

**FOR FURTHER INFORMATION CONTACT:** Edward R. Meyer, Office of Information Resources Management, Federal



Maritime Commission, 1100 L Street, NW., Washington, DC 20573-0001.

**SUPPLEMENTARY INFORMATION:** Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Information Resources Management has determined that Docket No. 92-21 will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. section 4321 *et seq.*, and that preparation of an environmental impact statement is not required.

In Docket 92-21 the Commission proposes to amend its regulations in Part 581 governing service contracts to allow the parties to a filed service contract to amend the contract's "essential terms." The intent of this proposal is to create a more flexible service contract system in order to benefit carriers, U.S. shippers and consumers. Similarly situated shippers who had previously accessed the contract would have the option of either continuing under the original contract or accessing the amended terms. The Commission also solicits comments on related issues that may result in further amendments to its service contract regulations.

The Finding of No Significant Impact ("FONSI") will become final within 10 days of publication of this notice in the *Federal Register* unless a petition for review is filed pursuant to 46 CFR 504.6(b).

The FONSI and related environmental assessment are available for inspection on request from the Office of the Secretary, room 11101, Federal Maritime Commission, Washington, DC 20573-0001, telephone (202) 523-5725.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 92-14247 Filed 6-16-92; 8:45 am]

BILLING CODE 6730-01-M

## INTERSTATE COMMERCE COMMISSION

### 49 CFR Part 1023

(Ex Parte No. MC-100 (Sub-No. 7))

### Single State Insurance Registration—1993 Rules

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Commission proposes to revise its regulations pertaining to registration of certificates and permits

with the States on an interim basis by eliminating the so-called "bingo card" system (whereby States issue stamps to be affixed to cab cards) while retaining and augmenting existing rules permitting State regulatory agencies to assign motor carriers identification numbers consistent with Congressional intent and the public interest, the proposed rules are intended to alleviate the burdens that the present registration system imposes. Comments are solicited from interested parties.

**DATES:** Comments must be submitted by July 17, 1992.

**ADDRESSES:** Send an original and 10 copies of comments referring to Executive Parte No. MC-100 (Sub-No. 7) to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

**FOR FURTHER INFORMATION CONTACT:** Kenneth H. Schwartz, (202) 927-5316 or Richard B. Felder, (202) 927-5610 (TDD for hearing impaired: (202) 275-1721).

**SUPPLEMENTARY INFORMATION:** Section 4005 of Title IV of the Intermodal Surface Transportation Efficiency Act of 1991 (Pub. L. No. 102-240) significantly amends 49 U.S.C. 11506—Registration of motor carriers by a State. The new law, at 49 U.S.C. 11506(c)(1), requires that, not later than 18 months after its enactment, the Interstate Commerce Commission (ICC) prescribe amendments to the regulations governing the existing registration system. The present regulations are codified at 49 CFR part 1023.

At the heart of the present system is the so-called "bingo card" program. In essence, under the current regulations, each State may require carriers annually to register their ICC authority by applying for identifying numbers and/or stamps for each vehicle the carriers intend to operate within the borders of that State during the coming year. Each State participating in the program must issue identification stamps or numbers that the carriers must place in squares on the back of uniform identification cab cards that must be maintained in the cab of the vehicle for which the identification stamp or number has been issued.

Congress determined that the "bingo card" program is inefficient and has been an administrative burden on the trucking industry and the States. Therefore, in section 4005, Congress acted to benefit interstate carriers and, ultimately, the public by replacing the present bingo card program with a simplified insurance registration system under which States no longer may require carriers to register or identify specific vehicles operated.

In Ex Parte No. MC-100 (Sub-No. 6), Single State Insurance Registration (not printed), decision served May 8, 1992 (Single State), and an advance notice of proposed rulemaking published at 57 FR 20072-20073 on May 11, 1992, the Commission examined the new law and requested the trucking industry and State regulatory agencies to participate in the formulation of revised regulations. The Commission is awaiting comments by interested parties.

In the meantime, we believe that it would be consistent with the Congressional intent and the public interest to take immediate action to alleviate the burdens that the present registration system imposes. We believe that adopting these rules would facilitate the transition to the new registration system that amended section 11506 mandates.

In formulating the proposed transitional rules, we have worked within the framework of the present rules. In essence, we propose to revise or eliminate most sections of subpart D and to remove one section of subpart J of part 1023 in order to eliminate the "bingo card" facet of the existing program. We emphasize that the proposed rules are intended as temporary, interim measures.

Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to, call, or pick up in person from: Office of the Secretary, room 2215, Interstate Commerce Commission, Washington, DC 20423. Telephone: (202) 927-7428. [Assistance for the hearing impaired is available through TDD service (202) 927-5721.]

This action will not significantly affect either the quality of the human environment or the conservation of energy resources. We preliminarily conclude that it will have a positive economic impact on a number of small entities.

### List of Subjects in 49 CFR Part 1023

Insurance, Motor carriers, Surety bonds.

Authority: 5 U.S.C. 553, 49 U.S.C. 10321.

Decided: June 9, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and Emmett. Commissioner Simmons dissented with a separate expression.

Sidney L. Strickland, Jr.,

Secretary.

For the reasons set forth in the preamble, title 49, chapter X, part 1023 of the Code of Federal Regulations is proposed to be amended as follows:



# **PART 1023—STANDARDS FOR REGISTRATION OF CERTIFICATES AND PERMITS WITH STATES**

1. The authority citation for part 1023 continues to read as follows:

Authority: 49 U.S.C. 11506.

2. Section 1023.32 is revised to read as follows:

## **§ 1023.32 Registration and identification.**

(a) On or before the tenth day of December of each calendar year, but not earlier than the preceding first day of October, such motor carrier shall apply to the Commission of such State for the assignment of an identification number for the registration and identification of the vehicle or vehicles which it intends to operate, or driveway operations which it intends to conduct, within the borders of such State during the ensuing year. The Commission of such State shall distribute identification numbers to individual carriers by December 31 or within 3 weeks of receiving an individual carrier's application, whichever is sooner. The motor carrier may thereafter file one or more supplements to its application for the purpose of registering and identifying additional vehicles or driveway operations if the need therefor arises or is anticipated.

(b) If the State Commission determines that the motor carrier has complied with all applicable provisions of these standards, the Commission shall assign the motor carrier an identification number.

(c) An identification number assigned under the provisions of this subpart shall be used for the purpose of registering and identifying a vehicle or driveway operations as being operated or conducted by a motor carrier under authority issued by the Interstate Commerce Commission, and shall not be used for the purpose of distinguishing between the vehicles operated by the same motor carrier. A motor carrier receiving an identification number under the provisions of this subpart shall not knowingly permit the use of same by any other person or organization.

(d) The registration and identification of a vehicle or driveway operations under the provisions of this subpart and the number evidencing same shall become void on the date or dates designated in the amendments to this part to take effect by January 1, 1994, unless such registration is terminated prior thereto.

3. Section 1023.33 is revised to read as follows:

## **§ 1023.33 Form and execution of application for identification number.**

The application for the issuance of such identification number shall be in the form set forth in Form B appended to this part and made a part of this section. The application shall be printed on a rectangular card or sheet of paper 11 inches in height and 8½ inches in width. The application shall be duly completed and executed by an official of the motor carrier, and shall be accompanied by the fee, if any, prescribed by the law of such State. The fee shall, as pertinent, either equal the flat fee or be calculated by using the per vehicle fee (not to exceed \$10 per vehicle), collected by the State as of November 15, 1991, for the issuance of identification stamps or an identification number under the former provisions of this part.

4. Section 1023.34 is revised to read as follows:

## **§ 1023.34 Form of identification number.**

Any identification number issued by a State Commission under the provisions of this subpart shall be specified on a written receipt or other document issued by the State Commission. The receipt or document shall specify the name of the State Commission, the name of the carrier, the carrier's ICC MC number, the amount of fees paid the State by the carrier, and the carrier's identification number. The carrier shall maintain the receipt or document at its principal corporate offices.

5. Section 1023.35 is revised to read as follows:

## **§ 1023.35 Form of evidence of payment of fees.**

Each carrier shall maintain in each of the vehicles it operates pursuant to the provisions of this part a copy of a list setting forth the States to which the carrier has paid a fee under this subpart and the identification number issued the carrier by each such State. No State shall require a carrier to display a decal, sticker, or emblem or otherwise maintain evidence of payment except as provided under this section. However, each carrier shall continue to maintain a cab card in each of its vehicles, in the manner specified by the predecessor to this section, until January 1, 1993.

## **§§ 1023.36 and 1023.37 [Removed]**

## **§§ 1023.38, 1023.39 [Redesignated as §§ 1023.36 and 1023.37]**

6. Sections 1023.36 and 1023.37 are removed and §§ 1023.38 and 1023.39 are redesignated as new §§ 1023.36 and 1023.37 respectively and revised to read as follows:

## **§ 1023.36 Use of list in driveway operations.**

In the case of a driveway operation, a copy of the list specified in § 1023.35 shall be maintained in the cab of the vehicle furnishing the motive power for the driveway operation whenever such an operation is conducted under the authority of the carrier identified on the list. A cab card shall be maintained in the cab, in the manner specified by the predecessor to this section, until January 1, 1993.

## **§ 1023.37 Inspection of list.**

A copy of the list specified in § 1023.35 shall, upon demand, be presented by the driver to any authorized Government personnel for inspection. Until January 1, 1993, a cab card issued under the predecessor to this subpart must be presented.

## **§ 1023.40–1023.42 [Removed]**

7. Sections 1023.40, 1023.41, and 1023.42 are removed.

## **§ 1023.101 [Removed]**

8. Section 1023.101 is removed and reserved.

[FR Doc. 92-14206 Filed 6-17-92; 8:45 am]

BILLING CODE 7035-01-M

# **DEPARTMENT OF COMMERCE**

## **National Oceanic and Atmospheric Administration**

### **50 CFR Part 216**

[Docket No. 920494-2094]

## **Taking and Importing of Marine Mammals; Listing of Eastern Spinner Dolphin as Depleted**

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.

**ACTION:** Proposed rule and request for comments.

**SUMMARY:** NMFS was petitioned to list the eastern spinner dolphin, *Stenella longirostris orientalis*, as depleted under the Marine Mammal Protection Act (MMPA). NMFS believes that the best available information indicates that the population of eastern spinner dolphin is at low levels relative to its initial size, well below optimal sustainable population levels. NMFS, therefore, proposes to designate eastern spinner dolphins as depleted.

**DATES:** Comments must be submitted on or before August 17, 1992.

**ADDRESSES:** Comments should be addressed to Dr. Nancy Foster, Director, Office of Protected Resources (F/PR),



1335 East-West Highway, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** Michael Payne or Dr. Aleta A. Hohn, Office of Protected Resources, 301/713-2322.

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 3 of the MMPA (16 U.S.C. 1362) defines the term "depletion" or "depleted" as meaning any case in which

(A) the Secretary, after consultation with the Marine Mammal Commission (MMC) and the Committee of Scientific Advisors on Marine Mammals \* \* \*, determines that a species or population stock is below its optimum sustainable population;

(B) a State, to which authority for the conservation and management of a species or population stock is transferred \* \* \*, determines that such species or stock is below its optimum sustainable population; or

(C) a species or population stock is listed as an endangered species or a threatened species under the Endangered Species Act of 1973.

Section 3 of the MMPA defined optimum sustainable population (OSP)

as:

With respect to any population stock, the number of animals which will result in the maximum productivity of the population or the species, keeping in mind the carrying capacity of the habitat and the health of the ecosystem of which they form a constituent element.

NMFS regulations at 50 CFR 216.3 define OSP as a population size which falls within a range from the population level of a given species or stock which is the largest supportable within the ecosystem [K] to the population level that results in maximum net productivity [MNPL]. Maximum net productivity is the greatest net annual increment in population numbers or biomass resulting from additions to the population due to reproduction and/or growth less losses due to natural mortality.

Section 2 of the MMPA (16 U.S.C. 1361) states that marine mammal species, populations and/or stocks should not be permitted to fall below their OSP level. The MNPL is the lower end of OSP. Historically, MNPL has been expressed as a range of values (generally 50-70 percent of K) determined theoretically by estimating what size stock in relation to the original stock size will produce the maximum net increase in population (42 FR 12010, Mar. 1, 1977). In 1977, the midpoint of this range (60 percent) was used to determine if a stock was depleted (42 FR 64548, Dec. 27, 1977). The 60 percent value was supported in the final rule governing the taking of marine mammals incidental to commercial fishing operations by the

best scientific evidence available (45 FR 72178, Oct. 31, 1980).

The status of the eastern spinner dolphin has been at issue for many years. On October 14, 1976, NMFS proposed regulations to govern the taking of marine mammals incidental to yellowfin tuna purse-seining in 1977, and give notice of a hearing thereon which was to be presided over by an Administrative Law Judge (ALJ) (at 41 FR 45015). One issue addressed was whether the eastern spinner dolphin population was depleted relative to OSP. Evidence presented during the hearing indicated that the eastern spinner dolphin population was at 54 percent of its initial stock size. Having reviewed the record, and in consideration of the recommendations of the MMC, NMFS determined that the eastern spinner dolphin population should be considered depleted at that time (42 FR 12010, Mar. 1, 1977).

Over August 27-31, 1979, NMFS held a workshop to reconsider the population status of eastern tropical Pacific (ETP) dolphin stocks (Smith, 1979). The report from the workshop contained new information concerning the status of these dolphin stocks, some of which suggested that several stocks of dolphin may be depleted (workshop report availability announced 44 FR 6448, Nov. 7, 1979). NMFS announced that a formal hearing to review the contents of the report would be conducted before an ALJ (45 FR 10552, Feb. 15, 1980). The formal hearing was convened, and the recommended decision of the ALJ was issued on July 18, 1980 (availability announced 45 FR 50375, July 29, 1980). In accordance with rule 15 of the procedural rules published on February 15, 1980 (45 FR 10562), and section 103(d) of the MMPA, the final decision and regulations governing the taking of marine mammals incidental to commercial fishing operations were published on October 31, 1980 (45 FR 72178).

The hearing focused on, among other issues, estimates of current population size relative to pre-exploitation or historical abundance (considered as maximum abundance of the ecosystem, or carrying capacity [K]). Based on NMFS testimony, and the best available scientific information at the time, NMFS determined that the stock of eastern spinner dolphin had declined to approximately 20 percent of its pre-exploitation size (data and analyses presented in Smith 1983), and was, therefore, "depleted" under the MMPA. The American Tunaboat Association (ATA), representing the tuna industry, filed suit in United States District Court for the Southern District of California

challenging the estimates and status of dolphin stocks adopted by NMFS in 1980 rulemaking on the grounds that NMFS did not follow all the ALJ's recommendations on what constituted the best scientific evidence available (see *ATA v. Baldrige*, 738 F.2d 1013 (9th Cir., 1984), describing the proceedings that were unreported in the district court). The findings subject to dispute were whether (1) the calculation of mean school size by NMFS should have used data obtained by its observers aboard tuna vessels, rather than from research vessels only, (2) observers on aerial surveys could be expected to sight all large dolphin schools on the trackline (NMFS's calculations of the dolphin density assumed this to be so), and (3) the area inhabited by the populations of dolphins was larger than the value used in NMFS's analysis.

On March 10, 1982, the District Court ruled in favor of the ATA, concluding that the "best available scientific evidence" should include data collected by observers on tuna vessels, and required the use of more current data on dolphin estimates and ranges. On July 24, 1984, the United States Court of Appeals for the Ninth Circuit affirmed the District Court Order (at *ATA v. Baldrige, supra*), holding that NMFS's 1980 final regulations, which set quotas for the taking of dolphins incidental to the tuna fishery, were unsupported by substantial evidence. As a result, NMFS's population estimates were adjusted to consider a larger average school size, increased densities of schools within the range of each dolphin species, and an increased area inhabited by the stock. Subsequent to the court-mandated revisions to the parameters used to estimate abundance, NMFS's 1979 estimate of abundance for the eastern spinner population more than doubled (NMFS 1985). The recalculated estimate was at 55 percent of K (NMFS 1985), a population level still considered depleted.

No status of stocks review was done in the mid-1980s as had been anticipated in the 1979 hearing. Instead, the MMPA was amended in 1984 to require that a minimum 5-year survey using research vessels be conducted to estimate the abundance of eastern tropical Pacific (ETP) dolphin stocks. Recent findings from the 5-year survey, as well as new analyses of sighting data from tuna vessels, are now available. The results indicate that the population of eastern spinner dolphin has not increased in size relative to the 1979 population levels (see Anganuzzi, Buckland and Cattanch 1991; Anganuzzi, Cattanch and Buckland, in press; DeMaster *et al.*,



in press; Wade and Gerrodette, in press).

NMFS was petitioned to list the eastern spinner dolphin as a depleted species or population under the MMPA on August 2, 1991. Section 115(a)(3)(A) of the MMPA states that "[i]f the Secretary receives a petition for a status review as described in paragraph (1), the Secretary shall publish a notice in the *Federal Register* that such a petition has been received and is available for public review" (16 U.S.C. 1383b(a)(3)(A)). NMFS published a notification of receipt of this petition, a request for comments and a determination that this petition presented substantial information, indicating that the petitioned action may be warranted (56 FR 56502, Nov. 5, 1991).

The determination that the petition presented substantial information was published simultaneously with the notice of receipt of the petition in this instance. This was because NMFS, when petitioned, was in the process of analyzing scientific information regarding this species available in the literature and obtained from individuals and organizations concerned with the conservation of marine mammals, persons in industries which may be affected by determinations regarding the status of stocks, and from academic institutions during the course of meetings held annually to review status of dolphin stocks involved in the ETP purse seine tuna fishery. A request for comments was nevertheless included in the *Federal Register* notice so that any previously unknown information could be evaluated by NMFS.

Section 115(a)(3)(D) of the MMPA further states that "[n]o later than two hundred and ten days after the receipt of the petition, the Secretary shall publish in the *Federal Register* a proposed rule as to the status of the species or stock, along with the reasons underlying the proposed status determination." (16 U.S.C. 1383b(a)(3)(D)). NMFS believes that, based on the best scientific information available, that population of eastern spinner dolphin is at levels well below optimal sustainable population levels, and, therefore, proposes through this notice to designate the eastern spinner dolphin as depleted under the MMPA.

On August 30, 1991, NMFS was also petitioned to list the eastern spinner dolphin as threatened under the ESA (56 FR 56502). This document does not represent a finding on that petition. Based on comments received and a review of the status of the stock of eastern spinner dolphin relative to the ESA, NMFS will publish a determination in the *Federal Register* at a later date on

whether a listing of "threatened" under the ESA is warranted.

### Comments

Written comments were requested in the receipt of petition notice (56 FR 56502, Nov. 5, 1991). Many of the issues raised in the comments have previously been raised and discussed at the annual status of stocks meetings, and consequently are not individually addressed here, although the issues are generally addressed in this proposed rule.

### Status Determination

#### 1. Distribution

The eastern spinner dolphin, a subspecies of the spinner dolphin, *Stenella Longirostris*, is endemic to the ETP (Perrin 1990). Over almost 25 years of observations from tuna purse seine and research vessels in the ETP, an extensive database on the distribution of this subspecies has been compiled. The eastern spinner dolphin is distributed over a large triangular region, with the northern point of the triangle off the coast of Baja, California (24° N. latitude), the southern point just south of the equator off the coast of Peru, and the offshore point at about 12° N. latitude, 135° W. longitude. The core range of the subspecies is much more restricted from near the coast of Mexico and Central America, extending about 1,000 km offshore (8–15° N. latitude and 90–125° W. longitude) (Perrin *et al.* 1985; Perrin 1990; Perrin, Akin, and Kashiwada 1991).

#### 2. The Purse-Seine Fishery: Observer Programs and the Collection of Dolphin Mortality Data

The purse-seine fleet for yellowfin tuna was dominated by, if not comprised entirely of, U.S. vessels from 1959 to 1969. However, during the mid-1980s, the size of the U.S. fleet declined appreciably (Table 1). From 1982 to 1984 the number of U.S. vessels purse seining in the ETP decreased from 95 to 42 (Table 1). The decline continued through 1991 (Table 1). The current tuna purse seine fleet of about 100 vessels that continues to set on dolphins in the ETP includes only from two to six from the U.S. As the U.S. representation in this fishery diminished, other countries entered the fishery (Table 1).

A mandatory observer program was implemented on U.S. vessels in 1976, and since 1979 dolphin mortality data have been collected on U.S. vessels by either NMFS or Inter-American Tropical Tuna Commission (IATTC) observers. In 1986, NMFS initiated 50 percent observer coverage and in 1987 extended

it to 100 percent in an effort to validate the accuracy of the data collected for estimating marine mammal mortality. Observer coverage was reduced to 50 percent at the beginning of 1988 and was maintained at this level throughout the year. After the 1988 amendments to the MMPA required 100 percent observer coverage during 1989 and subsequent fishing seasons, NMFS implemented a 100 percent observer program beginning with the 1989 season for the domestic fleet (54 FR 20171, May 10, 1989).

In the non-U.S. fleet, observer data on dolphin mortality were not available until 1979 when observers were placed on non-U.S. vessels through a program managed by the IATTC. However, participation was voluntary and observer coverage on representative vessels from each country was low prior to 1986 (Hall and Boyer 1988). When the observer program expanded in 1986, overall observer coverage increased from about 25 percent in 1987 to 49 percent in 1990. On December 23, 1988, the NMFS notified the IATTC that the U.S. tuna fleet would be required to carry an observer on every trip after January 1, 1989. Under the 1988 amendments to the MMPA, this action would require nations participating in the IATTC observer program to implement 100 percent observer coverage unless it was determined that an alternative program "will provide sufficiently reliable evidence of the average rate of incidental taking of marine mammals in this fishery" (54 FR 20171, May 10, 1989). For the non-U.S. fleet for the 1989 year, it was determined that 33 percent coverage of a harvesting nation's purse seine fleet's fishing trips would provide sufficiently reliable estimates of the average dolphin mortality rates of those fleets. In 1990, fifty percent observer coverage was required for fishing trips for any nation with five to nine vessels (55 FR 42235, Oct. 18, 1990). Further, a standard of 75 percent observer coverage was proposed for the 1991 fishing season, and 90 percent for the 1992 and subsequent seasons (55 FR 42235, Oct. 18, 1990).

#### 3. Estimation of Incidental Dolphin Mortality

Back-calculating historical or pre-exploitation population size (K) requires estimates of historical kill rates in the fishery. The incidental kill of dolphins is generally estimated by multiplying the mean kill of dolphins per set in a year (kill rate) by the total number of net sets involving dolphins made by the tuna fleet during the same year. Because there were few observations on the rate



of dolphin kill in the purse-seine fishery for yellowfin tuna during the period 1958-1972, especially in the early part of the period, and because there was no information available on kill rates from non-U.S. vessels during 1959-1962, extrapolation of kill rate data was necessary (Smith 1983).

TABLE 1.—THE NUMBER OF CLASS 6 VESSELS (THE CLASS OF VESSELS LARGE ENOUGH TO SET ON DOLPHINS) THAT HAVE OPERATED IN THE EASTERN TROPICAL PACIFIC SINCE 1971. THE NUMBER REPRESENTS VESSELS FISHING ON YELLOWFIN TUNA AND DOES NOT DISTINGUISH BETWEEN VESSELS FISHING ON DOLPHINS, LOGS OR SCHOOLS<sup>1</sup>

Year	Number of class six vessels		
	U.S.	Non-U.S.	Total
1971.....	71	13	84
1972.....	80	18	98
1973.....	93	26	119
1974.....	102	29	131
1975.....	112	34	146
1976.....	112	44	156
1977.....	108	52	160
1978.....	98	58	156
1979.....	98	59	157
1980.....	94	70	164
1981.....	97	68	165
1982.....	95	58	153
1983.....	66	55	121
1984.....	42	62	104
1985.....	41	74	115
1986.....	37	71	108
1987.....	37	91	128
1988.....	40	92	132
1989.....	40	82	122
1990.....	28	94	122
1991.....	14	90	104

<sup>1</sup> Data are from IATTC Annual Reports except for 1990 (data from the IATTC Third Quarterly Report for 1990) and 1991 (data are from the IATTC Third Quarterly Report for 1991).

Substantially more data on kill rates are available for 1973-1978 than for the period 1959-1972 (Smith 1983). The kill rate data for the U.S. fleet during 1973-1978 are more reliable than in the earlier data because they were collected by NMFS employees trained specifically for obtaining kill information. The non-U.S. tuna purse seine fleet increased markedly during this period. The first observations of the dolphin kill rate by this fleet were in 1979, and kill rates are considered similar to that of the U.S. fleet for that year. Smith (1983) assumed that during the early 1970s the non-U.S. kill rate was also comparable to that of the U.S. fleet. Therefore, following the 1979 workshop, Smith (1983) estimated the non-U.S. kill by assuming (1) the same kill rates by species in 1971-1972 for the non-U.S. fleet as that observed aboard U.S. vessels in those years; (2) the same kill rates by species in 1973 for

the non-U.S. fleet as that of the U.S. fleet in 1975; and (3) a linear convergence of kill rates by the non-U.S. fleet toward the 1979 U.S. rate.

#### 4. Incidental Take Quotas

Quotas on total dolphin mortality have been imposed on the U.S. tuna purse-seine fishery (the kill by species/stock and of all species combined) since 1977 (41 FR 45015, Oct. 14, 1976). The maximum allowable kill was decreased annually from approximately 30,000 in 1977 (41 FR 45015, Oct. 14, 1976) until 1980 when NMFS set an annual quota of 20,500 for each of the next 5 years (1981 through 1985) (45 FR 72178, Oct. 31, 1980). The maximum allowable total kill (all species) by the U.S. fleet has remained at 20,500 individuals until the present.

The quota for directed incidental kill of eastern spinner dolphins by the U.S. fleet was set at zero following the 1977 determination that the population of eastern spinner dolphins was depleted (42 FR 12010, Mar. 1, 1977). Only accidental takes (non-directed takes) were permitted thereafter until 1985.

The 1984 amendments to the MMPA re-established an incidental take quota for the stock of eastern spinner dolphins at 2,750 for the U.S. fleet (at 49 FR 46908, Nov. 29, 1984). This quota is still in effect. However the 1984 amendments further state that "no accidental taking of either species (*i.e.*, coastal spotted and eastern spinner dolphin) is authorized at any time when an incidental taking of that species is permitted," meaning in this case that if the quota on the stock of eastern spinner dolphins is reached, the accidental take policy would not apply to cover further takings of that species.

#### 5. Eastern Spinner Dolphin Mortality

The best estimates of the number of eastern spinner dolphins killed by non-U.S. vessels and U.S. vessels (as determined by a recognized panel of experts following the November 18-22, 1991 workshop on the status of ETP dolphin stocks, DeMaster, in press) are presented in Table 2. NMFS estimates that between 1959 and 1990, over 1,300,000 eastern spinner dolphins died as a result of this fishery. The total fishery-related mortality of eastern spinner dolphins in the U.S. and non-U.S. fleets was greatest from 1960 to 1975, peaking in 1961 during which an estimated 138,800 were killed. Mortality exceeded 100,000 dolphins per year in 6 years from 1960 to 1970, and approached 100,000 again in 1966 and 1972 (Table 2).

In 1977 the quota for directed incidental kill was set at zero (42 FR 12010, Mar. 1, 1977), and only an

accidental take (a non-directed take) was permitted. In protest, the purse-seine fleet remained in port until May, 1977 (Scheele and Wilkinson 1988). Mortality was lower than previous years (1,800, from Table 2), primarily because fishing occurred for approximately half the year. The significant reduction in reported mortality levels of eastern spinner dolphin was coincident with the U.S. prohibition against intentional incidental takes of this species, an imposition of quotas on the total number of dolphins (all species) which could be killed in the fishery (42 FR 22575, May 4, 1977), and implementation of the mandatory observer program in 1976. The mortality of the eastern spinner dolphin continued to decline to a low of approximately 745 animals in 1983 (Table 2). The low mortality in 1983 (Table 2) occurred during a year when a major El Niño-Southern Oscillation event forced many fishing vessels to leave the ETP for the western Pacific (Scheele and Wilkinson 1988) or stay in port, resulting in very low fishing effort (IATTC 1985). The 1984 amendments to the MMPA established an incidental take quota of 2,750 for the U.S. fleet (49 FR 46908, Nov. 29, 1984) which is still in effect.

The best estimates of eastern spinner dolphin mortality are from 1986 to the present. In 1986, the first year of observer coverage for the entire U.S. and non-U.S. purse-seine fleet, estimated total mortality (all species combined) was 133,000 dolphins (Table 2), and mortality estimates exceeding 52,000 animals per year have continued through 1990 (Table 2). The number of eastern spinner dolphins killed annually between 1986 and 1989 ranged between 10,358 and 19,526 individuals (Table 2). The increase in total dolphin mortality was primarily attributable to the non-U.S. fleet, as the quota for the U.S. fleet remained at 2,750 individuals. The high kill levels recorded in the non-U.S. fleet when observer coverage was adequate to obtain more precise estimates of mortality (beginning in 1986) suggest that dolphin mortality by the non-U.S. fleet may also have been high during years prior to implementation of the observer program. Therefore the mortality level of eastern spinner dolphins and total dolphin mortality (all species) in the purse-seine fishery may be greater than that indicated in Table 2 due, primarily, to underestimation of dolphin mortality by the non-U.S. fleet until, at least, 1986.

In 1990, the number of eastern spinner dolphin kills decreased to 5,378, and total dolphin mortality decreased to approximately 52,000 individuals (Table



2). Preliminary IATTC estimates for 1991 indicated that total dolphin mortality has further decreased to about 25,000 individuals (per J. Joseph's testimony at the March 18, 1992 hearing before the House Subcommittee on Fisheries and Wildlife and the Environment).

#### 6. Abundance of Eastern Spinner Dolphins

Smith (1979) estimated abundance of eastern spinner dolphins in 1979 as 298,400 animals using pooled data from research and fishing vessels. Holt and Powers (1982), using recalculated values for average school size, mixed-species proportions, and area inhabited by each population calculated a 1979 estimate of 293,000 eastern spinner dolphins on the basis of data collected from research vessels, and 292,700 using data collected from research vessels and tuna vessels combined, with coefficients of variation (CV) of 0.22 and 0.24, respectively. Smith (1983) used the 293,000 value to determine the status of the 1979 population relative to the pre-exploitation size of the population.

Following *ATA v. Baldrige*, NMFS recalculated the population estimate of eastern spinner dolphin using MOPS survey data collected from 1977 to 1983, and the parameter values for mean school size, number of animals on trackline, and an increased area inhabited by the dolphin population (as mandated by the Court directives). The adjusted 1979 population estimate more than doubled to 918,800 (NMFS 1985).

Abundance estimates of eastern spinner dolphins have recently become available as a result of data collected during research vessel surveys (referred to as Monitoring of Porpoise Stocks (MOPS)) conducted in the ETP, between 1986-90 (Wade and Gerrodette, in press), as directed by the 1984 amendments to the MMPA. The MOPS surveys were designed to detect trends in the relative abundance of the dolphin stocks and previous analyses were directed towards that end (Holt, Gerrodette and Cologne 1987). Additionally, the MOPS surveys have produced the best available information for calculating population estimates, and Wade and Gerrodette (in press) have re-analyzed the MOPS data to produce the best estimates of absolute abundance currently available. This determination was made during the November 18-22, 1991, workshop on the status of ETP dolphin stocks, after a review of the

analytical techniques by a recognized panel of experts (DeMaster, in press).

TABLE 2.—ESTIMATES<sup>1</sup> OF FISHING MORTALITY FOR EASTERN SPINNER DOLPHIN AND OF ALL SPECIES (TOTAL MORTALITY) FROM 1959-1990 FOR THE U.S. AND NON-U.S. PURSE-SEINE FLEETS IN THE ETP

Year	Number killed	
	Eastern spinner	Total mortality
1959.....	14,300	55,000
1960.....	124,300	478,000
1961.....	138,800	534,000
1962.....	56,200	216,000
1963.....	62,400	240,000
1964.....	101,400	390,000
1965.....	119,600	460,000
1966.....	97,200	374,000
1967.....	66,800	257,000
1968.....	59,500	229,000
1969.....	106,000	461,000
1970.....	107,400	467,000
1971.....	58,400	254,000
1972.....	87,400	380,000
1973.....	18,400	151,000
1974.....	17,800	135,000
1975.....	17,100	136,000
1976.....	14,700	135,000
1977.....	1,800	31,000
1978.....	1,100	21,000
1979.....	1,460	21,000
1980.....	1,108	32,000
1981.....	2,261	35,000
1982.....	2,606	29,000
1983.....	745	13,000
1984.....	6,033	41,000
1985.....	8,853	59,000
1986.....	19,526	133,000
1987.....	10,358	99,000
1988.....	18,793	79,000
1989.....	15,245	97,000
1990.....	5,378	52,000

<sup>1</sup> Data from Smith (1979, 1983), Wahlen (1986) and Punsley (1983) for the years 1959-1978; IATTC (1989, 1990, 1991) for the years 1979-1990, in addition to Holt and Boyer (1990, 1992) for the years 1989-1990. Table since 1973 presented in DeMaster, in press.

Wade and Gerrodette (in press) estimated the population of eastern spinner dolphins to be 391,200 to 754,200 for each of the 5 years of the MOPS surveys, with CVs of 0.37-0.42. The average abundance estimate over the 5 years of the survey period was 588,500. That estimate was further revised as a result of review and comments of the methodology delivered during the November, 1991, workshop. The revised estimate of 565,800 (Wade and DeMaster, pers. comm.) is considered the best available estimate of the current population (1991) of the eastern spinner dolphin.

#### 7. Classification of the Eastern Spinner Dolphin as Depleted Under the MMPA

Population estimates of the eastern

spinner dolphin population prior to 1979 were calculated by Smith (1983) (methods described therein), using 1979 abundance estimates (from combined research vessel and fishing vessel data, and from research vessel data alone), pooled kill-rate data collected by observers prior to (and including) 1972, then extrapolated back to 1959 for the years when no kill-rate data were collected (at Smith 1983). Smith estimated that the pre-exploitation or historical population of eastern spinner dolphin in 1959 (population size at K) was approximately 1,500,000. The 1979 population estimate (relative to the back-calculated estimate of the population at K) indicated that the eastern spinner dolphin population in 1979 was reduced to 17-25 percent of K (Smith 1983).

Following the decision of the Court of Appeals in *ATA v. Baldrige*, the historical or pre-exploitation population size (K) as re-back-calculated using the increased 1979 population estimate of 918,000 and kill-rate values lower than those used by Smith (1983). Using these values, K was estimated at 1,670,000 (Scheele and Wilkinson 1988) and the 1979 status of eastern spinner dolphins was considered to be at 55 percent of K (NMFS 1985).

Because back-calculation estimates of historical abundance are sensitive to estimates of current abundance (Smith and Polacheck 1979; Wade 1991), and because the 1986-1990 MOPS surveys resulted in estimates of current abundance that are considered more reliable than estimates based on previous data, Wade (1991) recalculated the status of eastern spinner dolphins using the best range of recent estimates of abundance, 391,200 to 754,200, a recruitment rate equal to 0.03, and a MNPL equal to 65 percent of K (values duplicating the mid-range parameter estimates of Smith 1983). Using these parameters, Wade considered the current population to be from 26 to 44 percent of K, a range substantially below the MNPL, and depleted under the MMPA.

The abundance estimates from each year of the MOPS surveys, 1986-1990 (at Wade and Gerrodette 1991) can also be compared to the 1979 population size of 918,800 (considered to be 55 percent of K), as adjusted after *ATA v. Baldrige*. The 1986-1990 population estimates range from 43 to 82 percent of the 1979 estimate, or 24-45 percent of K. When



using the best estimate of the population from the MOPS surveys, 565,800 (Wade (1991) revised by DeMaster (in press) based on comments received during the November, 1991, workshop), the current population is 62 percent of the adjusted 1979 estimate, or 33 percent of K.

### Conclusion

A determination of depletion must, in significant part, be based on the relationship between the K and OSP, as described in the MMPA. MNPL is considered the lower end of OSP, and NMFS has adopted by regulation that MNPL occurs at 60 percent of K (42 FR 64548, Dec. 27, 1977 and 45 FR 72178, Oct. 31, 1980).

The MOPS surveys, 1986-1990, have produced the best available data for calculating the current population estimate of ETP dolphin populations. When using these data, the current population estimate is considered substantially below OSP (Wade 1991), and depleted under the MMPA. Compared to the adjusted 1979 population size as a result of the decision of the Court of Appeals in *ATA v. Baldrige* (NMFS 1985), the 1986-1990 population estimates range from 43-82 percent of the 1979 estimate, or 24-45 percent of K. Using the best estimate of the population obtained from the MOPS surveys, 565,800, the current population of eastern spinner dolphin is considered to be at 33 percent of K.

Based on previous determinations regarding the status of the eastern spinner dolphin population (42 FR 12010, Mar. 1, 1977; Smith 1983; and *ATA v. Baldrige*) and the best scientific information available, NMFS has determined that this population is below OSP, and that the petitioned action is warranted. Therefore, the eastern spinner dolphin is proposed to be designated as depleted under the MMPA.

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### Classification

The Assistant Administrator has determined that this proposed rule is exempt from the requirements of Executive Orders 12291 and 12812, the Paperwork Reduction Act, and the Regulatory Flexibility Act, because section 115(a)(2) of the MMPA requires listing decisions to be based "solely on the basis of the best scientific information available."

A designation of depletion in this instance, which is similar to a listing action under ESA section 4(a), is categorically excluded by NOAA Administrative Order 216-6 from the requirement to prepare an environmental assessment or an environmental impact statement under the National Environmental Policy Act.

Dated: June 12, 1992.

Michael F. Tillman,

Deputy Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration.

### List of Subjects in 50 CFR Part 216

Administrative practice and procedure, Imports, Indians, Marine mammals, Penalties, Reporting and recordkeeping requirements, Transportation.



For the reasons set out in the preamble, 50 CFR part 216 is proposed to be amended as follows:

**PART 216—REGULATIONS  
GOVERNING THE TAKING AND  
IMPORTING OF MARINE MAMMALS**

1. The authority citation for part 216 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*, unless otherwise noted.

2. In § 216.15, a new paragraph (d) is added to read as follows:

**§ 216.15 Depleted species.**

(d) Eastern spinner dolphin (*Stenella longirostris orientalis*).

[FR Doc. 92-14209 Filed 6-16-92; 8:45 am]

BILLING CODE 3510-08-M



## Notices

Federal Register

Vol. 57, No. 117

Wednesday, June 17, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

### DEPARTMENT OF AGRICULTURE

#### Agricultural Marketing Service

##### Meeting of the National Organic Standards Board (NOSB)

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Federal Advisory Committee Act (Public Law 92-463), as amended, the Agricultural Marketing Service announces the forthcoming meeting of the NOSB.

**DATES:** July 8-10, 1992.

**ADDRESSES:** The July 8 meeting will be held in the conference room of the Larimer County Extension Office, 200 West Mountain Avenue, Fort Collins, Colorado, from 8 a.m. to 5:30 p.m., with public input scheduled from 1 p.m. to 5:30 p.m. The July 9 and 10 meetings will be held in the Eddy Building on the Colorado State University campus from 8 a.m. to 5:30 p.m. in rooms 109, 113, 221, and 222. Specific committee meetings, room assignments, and times will be announced in the agenda.

**FOR FURTHER INFORMATION CONTACT:** Dr. Harold S. Ricker, Staff Director, National Organic Standards Board, Room 4006-South Building, P.O. Box 96456, Washington, DC 20090-6456. Telephone: (202) 720-2704.

**SUPPLEMENTARY INFORMATION:** Section 2119 of the Food, Agriculture Conservation, and Trade Act of 1990 (Fact Act), Pub. L. 101-624 (7 U.S.C. 6501 *et seq.*), requires establishment of a National Organic Standards Board. The purpose of the NOSB is to assist in the development of standards for substances to be used in organic production and handling and to advise the Secretary on any other aspects of the implementation of Title XXI of the Fact Act. The NOSB met for the first time in Washington, DC, in March and

formed six committees to work on various aspects of the Program. The committees are: Crops Standards, Processing, Labeling and Packaging, Livestock Standards, Accreditation, National Materials List, and International Issues. The full Board will meet in plenary sessions and the six committees will meet in separate sessions.

The purpose of this meeting is to receive input on organic standards issues from individuals and organizations, with particular emphasis on issues and concerns of producers and handlers in the local region. The Board will also review progress reports and plans of its working committees and work to develop a possible approach for a long range plan for program implementation. The Board is seeking input on: Materials needed for livestock and poultry health; processing aids, and inputs, especially those for which exemptions are needed; possible criteria for accrediting certifying agents; elements that should be considered in developing a farm plan; and, other concerns as they relate to the organic program.

At the request of the local organic industry, the Board will participate in a fact finding tour on July 7, to meet with organic producers and processors to become acquainted with their specific concerns and issues.

A final agenda will be available on June 12, 1992. Persons requesting copies should contact Mrs. Fox at the above address or telephone number.

Meetings will be open to the public. Individuals and organizations wishing to provide written comments on these issues or to express public comment on any organic issues should forward the request to Harold S. Ricker at the above address or FAX to (202) 690-0338 by June 26, 1992, in order to be scheduled. Each individual or organization will be allocated 10 minutes for orally presenting the key issues of concern and should provide 16 copies of written material elaborating on those issues for the Board.

Dated: June 12, 1992.

Kenneth C. Clayton,  
Acting Administrator.

[FR Doc. 92-14212 Filed 6-16-92; 8:45 am]

BILLING CODE 3410-02-M

### Forest Service

[3410-11]

#### Nighthawk Timber Sale, Medicine Bow National Forest, Carbon County, WY

**AGENCY:** Forest Service, USDA

**ACTION:** Notice of intent to prepare environmental impact statement.

**SUMMARY:** The Forest Service will prepare an Environmental Impact Statement (EIS) on a proposal to harvest timber on the Medicine Bow National Forest within Carbon County, Wyoming. The proposed Nighthawk Timber Sale would be located in the Singer Peak roadless area.

The Nighthawk Timber Sale area was analyzed in a previous Environmental Assessment which also included the Mill Creek Timber Sale south of this proposal in 1985. This EIS will provide an updated and intensified analysis of this proposed timber sale.

The proposal includes harvesting trees, road construction and reconstruction, road closures, site preparation and slash treatment.

The Forest Service invites comments and suggestions on the scope of the analysis to be included in the Draft Environmental Impact Statement (DEIS). In addition, the Forest Service gives notice it is beginning a full environmental analysis and decision-making process for this period so that interested or affected people may know how they can participate in the environmental analysis and contribute to the final decision.

**DATES:** Comments concerning the scope of the analysis should be received in writing by July 27, 1992.

**ADDRESSES:** Send written comments to Michael B. Murphy, District Ranger, Hayden Ranger District, P.O. 187, Encampment, WY 82325.

**FOR FURTHER INFORMATION CONTACT:** George Foley, NEPA Coordinator, (307) 327-5481.

#### SUPPLEMENTARY INFORMATION:

The Nighthawk Timber Sale is a site specific project identified in the Medicine Bow Land and Resource Management Plan (Forest Plan). This project was tentatively scheduled during the first ten-year period of the Forest Plan, and is intended to implement the



Forest Plan and achieve the desired future condition for the area.

The proposal includes harvesting lodgepole pine and spruce/fir on approximately 1,200 acres. Under this proposal, 14.3 miles of roads will be constructed to remove the trees. Upon sale termination, 90 percent of the constructed roads will be closed.

The proposed timber sale contains portions of management prescription areas 4B and 7. The emphasis in 4B is on habitat for one or more indicator species and 7 has an emphasis on wood-fiber production and utilization. The proposed action is consistent with the Forest Plan goals of "monitoring of insect and disease \* \* \* and treatment to reduce risk of epidemic outbreaks" and "providing for timber harvest to support local dependent industries."

The decision to be made is how to best manage the Singer Peak area, and whether to implement the proposed timber sale and other related activities. The related activities would include road construction and reconstruction, site preparation, and road closures.

The Deciding Official will be Gerald G. Heath, Forest Supervisor, Medicine Bow National Forest, 2468 Jackson Street, Laramie, Wyoming, 82070-6535.

We expect to publish a draft environmental impact statement in late 1992, to ask for public comment on the draft material for a period of 45 days, and to complete a final environmental impact statement by June, 1993.

The 45 day public comment period on the draft environment impact statement will commence on the day the Environmental Protection Agency publishes a "Notice of Availability" in the *Federal Register*.

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon v. Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc. v. Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action

participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points). Please note that comments you make on the draft environmental impact statement will be regarded as public information.

USDA Forest Service, R-2, Medicine Bow National Forest, KP, May 26, 1992, (307) 327-5481.

Dated: May 29, 1992.

Gerald G. Heath,  
Forest Supervisor.

[FR Doc. 92-14127 Filed 6-16-92; 8:45 am]

BILLING CODE 3410-11-M

### Environmental Analysis

**AGENCY:** Pacific Southwest Region, Forest Service, USDA.

**ACTION:** Notice of environmental analysis for interim guidelines for management of the Sierran Province of the California spotted owl.

**SUMMARY:** The Pacific Southwest Region of the Forest Service is initiating environmental analysis to amend the Regional Guide and Forest Plans for interim management of habitat of the Sierran Province of the California spotted owl. An Interdisciplinary Team will prepare interim guidelines to maintain habitat management options. The interim guidelines will affect timber harvest, fuels management, snag and large woody debris retention as well as projects that may remove trees but have non-timber management goals such as campground construction or hazard tree removal.

It is intended that the interim guidelines be in effect for approximately two years. This time is needed for additional data to be gathered, analyzed and documented to provide the final

direction for management of the California spotted owl in accordance with the National Environmental Policy Act (NEPA) and the National Forest Management Act (NFMA).

The interim guidelines will amend the Regional Guide for the Pacific Southwest Region and up to ten Forest Plans, including Forest Plans for the Eldorado, Inyo, Lassen, Modoc, Plumas, Sequoia, Sierra, Stanislaus and Tahoe National Forests, and the Lake Tahoe Basin Management Unit. The Records of Decision for the Lassen and Sierra Forest Plans have not yet been issued. If they are still not issued when the interim guidelines decision is made, the Regional Guide will direct management of the Sierran Province of the California spotted owl on these Forests.

The Forest Service expects to complete analysis on the interim guidelines by September 1992. At the completion of the analysis, a decision will be made to either document the analysis in an environmental assessment (EA) or begin to prepare an environmental impact statement (EIS). Note that this Notice is not a Notice of Intent to prepare an EIS. Due to the short-term nature of these interim guides, the Forest Service currently expects that the analysis will be documented in an environmental assessment and a Finding of No Significant Impact will be issued as a result of this analysis. However, if the analysis determines that an EIA is necessary, a Notice of Intent would be issued in the *Federal Register* at a later date.

It is our intent that these interim guidelines apply to project planning initiated after the interim guideline decision is implemented. Project analyses farther in the analysis process may comply with this interim guidelines decision at the discretion of the Forest Supervisor.

Public comment is requested. The Pacific Southwest Region (Region 5) is now soliciting public comments to help identify issues related to this analysis and these comments are requested by July 3, 1992.

**FOR FURTHER INFORMATION CONTACT:** Comments or questions about this Notice should be addressed to DeAnn Zwig, California Spotted Owl Interim Guidelines Team Leader, Pacific Southwest Region, Forest Service, USDA, 630 Sansome Street, San Francisco, CA 94111 at (415) 705-2842.



**SUPPLEMENTARY INFORMATION:****History**

In April 1990, the report of the Interagency Scientific Committee to Address the Conservation of the Northern Spotted Owl (ISC Report) stated that the spotted owl habitat area (SOHA) strategy was a "prescription of extinction" for the northern spotted owl because it tended to isolate spotted owl populations from each other and did not facilitate dispersal of owls. Although the California subspecies of the spotted owl is not currently listed, nor proposed for listing as threatened or endangered, the Forest Service is obligated under regulations promulgated pursuant to the National Forest Management Act to insure maintenance of viable populations of all native species. Region 5 has identified the California spotted owl as a sensitive species on National Forest throughout its range.

The ISC Report, although not specific to the California spotted owl, did cast doubt on the validity of a SOHA management system for all spotted owl subspecies. In June 1991, a California Spotted Owl Assessment Team Steering Committee was formed by the Forest Service and State of California as a partnership of State and Federal agencies to make an assessment of the current status of the California subspecies. The Steering Committee included members from several State of California and Federal entities, and included observers from local agencies and private entities, including timber industry and environmental groups.

The Steering Committee established two teams to conduct the assessment—a Technical Assessment Team and a Policy-Implementation Team. The Technical Assessment Team was to produce a report on the California spotted owl which would analyze and interpret relevant information on owl biology, characterize habitat attributes, evaluate current land management practices, evaluate a range of options to achieve an amount and configuration of suitable habitat to provide for the long-term maintenance of the owl throughout its range and identify research, inventory and monitoring needs. The report of the Technical Assessment Team (the CASPO Report) was issued on May 8, 1992.

The Policy-Implementation Team is now examining and evaluating alternative institutional approaches for maintaining viability of the California spotted owl while minimizing negative economic, environmental and social costs. The Policy-Implementation Team's report is expected in September 1992.

Since July, the Forest Service has been using a cumulative effects analysis (CEA) process in order to identify and preserve options for maintaining habitat for the California spotted owl pending completion of the CASPO report. The CEA process was developed with the assistance of Dr. Jared Verner, team leader for the Technical Assessment Team. The CEA process is still being used for all projects proposing harvest of timber.

The release of the CASPO Report on May 8, 1991, clarified the need to reexamine current management and develop interim direction for the protection of the California spotted owl and its habitat. The California Spotted Owl Steering Committee process will not be concluded until September 1992.

**Interim Guideline Public Involvement**

This notice solicits public involvement. Due to the importance of issuing interim guidelines in a timely manner, the time available for solicitation of public comment must necessarily be short. Public comment request letters have been mailed to over 300 publics in California. This mailing asked for a public comment due date of June 26. Due to the time it has taken to gather some information about the scope of this analysis, this *Federal Register* Notice is being published later than anticipated, and thus the public comment due date has been extended. Publics, including those who received the mailing, have until July 3, 1992 to provide their comments.

Part of the recent information gathered was a more detailed review of the time required for development and analysis of final guidelines. In our initial mailing, the Forest Service estimated it would take two to three years to develop final guidelines for management of the California spotted owl. We now believe a two year period is more realistic, and that is the time period stated in this Notice.

**Scope of Interim Guideline Analysis**

This analysis will analyze alternative methods for managing the Sierran Province of the California spotted owl for approximately the next two years. It is not feasible within these time frames to analyze how changing the spotted owl management standards and guidelines relates in detail to other Regional Guide and Forest Plan features such as riparian, visual quality and archaeological direction. This level of analysis will be completed with individual Forest Plan amendments as appropriate. Only general effects analysis will be possible for indirectly related resources. More detail will be

necessary for directly related resources such as the California spotted owl itself, and timber and fuels resources.

This analysis will not address the Southern Province of the California spotted owl. Because the CASPO Report endorsed the existing management direction on National Forest System lands, amendment is not warranted. Long-term research and monitoring needs will also not be addressed in this analysis.

**Tentative Interim Guideline Analysis Objectives**

Provide for maintenance of options to manage the Sierran Province of the California spotted owl, during the short-term. Based on findings in the CASPO report, specific objectives are:

- (1) Protect known owl nest stands (or main roost stands if nest stands are not known) from any significant modification.
- (2) Protect very large old trees throughout Sierran conifer forests.
- (3) Begin to address the issue of excessive fuels.

We have a challenging job ahead of us to analyze interim management of the Sierran Province of the California spotted owl within these short time frames. We encourage your comments and input to help shape this analysis. Please remember the short-term nature of these guidelines and frame your input in that context. With your help we can make this process a success.

Dated: June 10, 1992.

Dale N. Bosworth,

Deputy Regional Forester.

[FR Doc. 92-14153 Filed 6-16-92; 8:45 am]

BILLING CODE 3410-11-M

**Soil Conservation Service****Pitchpine Run Watershed, PA**

**AGENCY:** USDA—Soil Conservation Service.

**ACTION:** Notice of a finding of no significant impact.

**SUMMARY:** Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Pitchpine Run Watershed, Jefferson County, Pennsylvania.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard N. Duncan, State



Conservationist, Soil Conservation Service, One Credit Union Place, suite 340, Harrisburg, Pennsylvania 17110-2993, telephone (717) 782-2202.

**SUPPLEMENTARY INFORMATION:** The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Richard N. Duncan, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for flood prevention. The planned works of improvement involve the installation of a conduit system through the Borough of Reynoldsville, Pennsylvania to replace an existing modified channel. The project includes fish and wildlife enhancement features.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. A limited number of copies of the FONSI are available to fill single copy requests at the above address. The environmental assessment and basic data may be reviewed by contacting Richard N. Duncan.

No administrative action on implementation of the proposal will be taken until July 17, 1992.

(This activity is listed in the Catalog of Federal Domestic Assistance Program No. 10.904—Watershed Protection and Flood Prevention and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Dated: June 5, 1992.

Richard N. Duncan,  
State Conservationist.

[FR Doc. 92-14120 Filed 6-16-92; 8:45 am]

BILLING CODE 3410-16-M

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

[Order No. 580]

#### Expansion of Foreign-Trade Zone 9, Honolulu To Include a Site in Kihei (Maui County), Hawaii

Pursuant to its authority under the Foreign-Trade Zones (FTZ) Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), and the FTZ Board Regulations (15 CFR part 400), the FTZ Board (the Board) adopts the following Resolution and Order:

*Whereas*, The State of Hawaii's Department of Business, Economic Development and Tourism, on behalf of

the State of Hawaii, Grantee of FTZ 9, has applied to the Board for authority to expand its general-purpose zone, which presently consists of 3 sites in Honolulu, to include a site in Kihei (Maui County), Hawaii, adjacent to the Kahului Customs port of entry;

*Whereas*, The application was accepted for filing on November 5, 1991, and notice inviting public comment was given in the *Federal Register* on November 19, 1991 (Docket 73-91, 56 FR 58335);

*Whereas*, An examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

*Whereas*, The expansion is necessary to establish general-purpose zone services in the Kahului Customs port of entry area; and,

*Whereas*, The Board has found that the requirements of the FTZ Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

*Now therefore*, The Board hereby orders:

That the Grantee is authorized to expand its general-purpose zone (FTZ 9) to include a site in Kihei, Maui County, Hawaii, in accordance with the application filed on November 5, 1991 (Doc. 73-91), subject to the Act and the Board's regulations (as revised, 56 FR 50790-50808, 10/8/91), including § 400.28.

Signed at Washington, DC, this 9th day of June, 1992.

Alan M. Dunn,

Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

[FR Doc. 92-14237 Filed 6-16-92; 8:45 am]

BILLING CODE 3510-DS-M

[Order No. 581]

#### Expansion of Foreign-Trade Zone 9, Honolulu To Include a Site in Hilo (Hawaii County), Hawaii

Pursuant to its authority under the Foreign-Trade Zones (FTZ) Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), and the FTZ Board Regulations (15 CFR part 400), the FTZ Board (the Board) adopts the following Resolution and Order:

*Whereas*, The State of Hawaii's Department of Business, Economic Development and Tourism, on behalf of the State of Hawaii, Grantee of FTZ 9, has applied to the Board for authority to expand its general-purpose zone, which presently consists of 3 sites in Honolulu, to include a site in Hilo (Hawaii

County), Hawaii, within the Hilo Customs port of entry;

*Whereas*, The application was accepted for filing on November 5, 1991, and notice inviting public comment was given in the *Federal Register* on November 19, 1991 (Docket 74-91, 56 FR 58335);

*Whereas*, An examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

*Whereas*, The expansion is necessary to establish general-purpose zone services in the Hilo Customs port of entry area; and,

*Whereas*, The Board has found that the requirements of the FTZ Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

*Now therefore*, The Board hereby orders:

That the Grantee is authorized to expand its general-purpose zone (FTZ 9) to include a site in Hilo, Hawaii County, Hawaii, in accordance with the application filed on November 5, 1991 (Doc. 74-91), subject to the Act and the Board's regulations (as revised, 56 FR 50790-50808, 10/8/91), including § 400.28.

Signed at Washington, DC, this 9th day of June 1992.

Alan M. Dunn,

Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 92-14238 Filed 6-16-92; 8:45 am]

BILLING CODE 3510-DS-M

[Board Order No. 579]

#### Approval for Manufacturing Activity (Telephone and Related Equipment) Within Foreign-Trade Zone 171 Liberty County, Texas (Houston Poe Area)

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u) (the Act) and the Foreign-Trade Zones Board Regulations (15 CFR part 400), the Foreign-Trade Zones Board (the Board) adopts the following order:

*Whereas*, Pursuant to § 400.28(a)(2) of the Board's regulations, approval of the Board is required prior to commencement of new manufacturing / processing activity within existing zone facilities;

*Whereas*, Pursuant to § 400.32(b)(1), the Commerce Department's Assistant Secretary for Import Administration has



authority to act for the board in making such decisions on new manufacturing/processing activity under certain circumstances, including situations where the proposed activity is the same as activity recently approved by the Board (§ 400.32(b)(1)(i));

Whereas, The Liberty County Economic Development Corporation, grantee of FTZ staff 171, has made application (filed 1-24-92, A(32b1)-2-92; Doc. 14-92, 5-27-92) to the Board on behalf of Sinopac International Corporation for authority to manufacture telephones and related equipment within FTZ 171 in Liberty County, Texas;

Whereas, The FTZ has reviewed the proposal and finds that the criteria for processing the proposal under § 400.32(b)(1) are met and that, upon consideration of the criteria enumerated in § 400.31(b), the proposal is deemed to be in the public interest;

Whereas, Based on the foregoing review and pursuant to § 400.32(b)(1), the Executive Secretary recommends approval of the proposal;

Now, Therefore, The Assistant Secretary for Import Administration, acting for the Board pursuant to § 400.32(b)(1), concurs in the recommendation and hereby approves the request for manufacturing at the Sinopac International Corporation plant within FTZ 171, located in Liberty County, Texas, subject to the Act and the Board's Regulations (as revised, 56 FR 50790-50808, 10/8/91), including § 400.28.

Signed at Washington, DC, this 9th day of June 1992, pursuant to Order of the Board.

Alan M. Dunn,

Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,  
Executive Secretary.

[FR Doc. 92-14239 Filed 6-16-92; 8:45 am]

BILLING CODE 3510-DS-M

#### International Trade Administration

[A-357-807, A-834-804, A-821-804, A-570-819, A-823-804, A-307-807]

**Initiation of Antidumping Duty Investigations: Ferrosilicon From Argentina, Kazakhstan, the People's Republic of China, Russia, Ukraine, and Venezuela**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** June 17, 1992.

**FOR FURTHER INFORMATION CONTACT:** Shawn Thompson, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-1776.

#### INITIATION OF INVESTIGATIONS:

##### The Petitions

On May 22, 1992, we received petitions filed in proper form by AIMCOR, Alabama Silicon, Inc., American Alloys, Inc., Globe Metallurgical, Inc., Silicon Metaltech Inc., United Autoworkers of America Local 523, United Steelworkers of America Locals 12646, 2528, 5171 and 3081, and Oil, Chemical & Atomic Workers Local 389 (petitioners). In accordance with 19 CFR 353.12, the petitioners allege that ferrosilicon from Argentina, Kazakhstan, the People's Republic of China (PRC), Russia, Ukraine, and Venezuela is being or is likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are materially injuring, or threaten material injury to, a U.S. industry.

The petitioners have stated that they have standing to file the petitions because they are interested parties, as defined under sections 771(9)(C) and 771(9)(D) of the Act, and because the petitions were filed on behalf of the U.S. industry producing the product subject to these investigations and on behalf of certified unions representing the production employees of U.S. ferrosilicon producers. In any interested party, as described under paragraph (C), (D), (E), or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, these petitions, it should file a written notification with the Assistant Secretary for Import Administration.

Under the Department's regulations, any producer or reseller seeking exclusion from a potential antidumping duty order must submit its request for exclusion within 30 days of the date of the publication of this notice. The procedures and requirements are contained in 19 CFR 353.14.

##### Scope of Investigations

The product covered by these investigations is ferrosilicon, a ferroalloy generally containing, by weight, not less than four percent iron, more than eight percent but not more than 96 percent silicon, not more than 10 percent chromium, not more than 30 percent manganese, not more than three

percent phosphorous, less than 2.75 percent magnesium, and not more than 10 percent calcium or any other element.

Ferrosilicon is a ferroalloy produced by combining silicon and iron through smelting in a submerged-arc furnace. Ferrosilicon is used primarily as an alloying agent in the production of steel and cast iron. It is also used in the steel industry as a deoxidizer and a reducing agent, and by cast iron producers as an inoculant.

Ferrosilicon is differentiated by size and by grade. The sizes express the maximum and minimum dimensions of the lumps of ferrosilicon found in a given shipment. Ferrosilicon grades are defined by the percentages by weight of contained silicon and other minor elements. Ferrosilicon is most commonly sold to the iron and steel industries in standard grades of 75 percent and 50 percent ferrosilicon.

Calcium silicon, ferrocalcium silicon, and magnesium ferrosilicon are specifically excluded from the scope of these investigations. Calcium silicon is an alloy containing, by weight, not more than five percent iron, 60 to 65 percent silicon, and 28 to 32 percent calcium. Ferrocalcium silicon is a ferroalloy containing by weight not less than four percent iron, 60 to 65 percent silicon, and more than 10 percent calcium. Magnesium ferrosilicon is a ferroalloy containing, by weight, not less than four percent iron, not more than 55 percent silicon, and not less than 2.75 percent magnesium.

Ferrosilicon is classifiable under the following subheadings of the Harmonized Tariff Schedule of the United States (HTSUS): 7202.21.1000, 7202.21.5000, 7202.21.7500, 7202.21.9000, 7202.29.0010, and 7202.29.0050. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of these investigations is dispositive.

#### United States Price and Foreign Market Value

##### Argentina

Petitioners based their estimate of United States Price (USP) on the December 1991 U.S. f.o.b. import value of ferrosilicon. Petitioners subtracted from USP foreign inland freight charges. Petitioners added to USP the amount of Argentine value added taxes (VAT) which would have been collected had the exported merchandise been taxed.

Petitioners' estimate of FMV is based on two types of information, both obtained by a foreign research consultant: (1) Observed prices in Argentina for ferrosilicon, exclusive of



packing, during September 1991 and March 1992 and (2) quoted base prices for ferrosilicon, inclusive of packing, in the same periods. Petitioners added U.S. packing to the observed prices but made no adjustment for packing costs to the quoted base prices. Consequently, we subtracted from the quoted base prices the home market packing cost provided in the petition and added U.S. packing cost. Petitioners also added to both the observed and quoted base prices the amount of VAT assessed in Argentina on home market sales. We adjusted FMV by subtracting Argentine VAT and adding the theoretical amount of VAT which would have been paid on the U.S. merchandise had it been taxed.

#### Kazakhstan

Petitioners based their estimate of USP on the average U.S. f.o.b. import value of ferrosilicon from the former Union of Soviet Socialist Republics (U.S.S.R.) for the period September 1991 to February 1992. U.S. Customs statistics for imports from Kazakhstan were not available because the U.S. import statistics did not differentiate U.S. imports of the subject merchandise from the former republics of the U.S.S.R. The Department will conduct a separate investigation of the subject merchandise produced in Kazakhstan and will collect and analyze USP data from specific exporters and/or producers in this proceeding. Petitioners made no adjustments to the estimated USP because they stated that they were unable to obtain information regarding foreign transportation costs.

Petitioners contend that the FMV of Kazakhstan-produced imports subject to this investigation must be determined in accordance with section 773(c) of the Act, which concerns non-market economy (NME) countries. In accordance with section 771(18)(c) of the Act, any determination that a foreign country has at one time been considered an NME shall remain in effect until revoked. This presumption covers the geographic area of the former U.S.S.R., each part of which retains the previous NME status of the former U.S.S.R. Therefore, Kazakhstan will continue to be treated as an NME until this presumption is overcome (see, Preliminary Determinations of Sales at Less Than Fair Value: Uranium from Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Ukraine and Uzbekistan, 57 FR 23380 (June 3, 1992) (Uranium)). In the course of this investigation, parties will have the opportunity to raise and provide relevant information on this issue, as well as on whether FMV should be based on prices or costs in the NME. The Department further presumes,

based on the extent of central control in an NME, that a single antidumping margin, should there be one, is appropriate for all exporters from the NME. Only if individual NME exporters can demonstrate an absence of central government control with respect to the pricing of exports, both in law and in fact, will they be entitled to separate, company-specific rates. (See, Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China, 56 FR 20588, (May 6, 1991) (Sparklers), for a discussion of the information the Department considers appropriate in this regard.)

In accordance with section 773(c), FMV in NME cases is based on NME producers' factors of production (valued in a market economy country). Absent evidence that the Kazakh government has selected which factories produce for export to the United States, for purposes of this investigation we intend to base FMV only on those factories in Kazakhstan which are known to produce ferrosilicon for export to the United States.

Petitioners calculated FMV on the basis of the valuation of the factors of production. Because Kazakhstan-specific economic data were not available at the time of the filing of the petition, due to the recent dissolution of the U.S.S.R., petitioners were unable to determine which market economy was most comparable to Kazakhstan in terms of economic development. Consequently, petitioners used publicly available economic data on the U.S.S.R. in order to select the appropriate surrogate. Based on their comparison of the relative levels of economic development, petitioners used Mexico as the surrogate country in valuing the factors of production. For purposes of this initiation, we have accepted Mexico as having a comparable economy and being a significant producer of comparable merchandise, pursuant to section 773(c) (4) of the Act.

Petitioners used one of their members' (i.e., AIMCOR's) factors for raw material and processing material inputs, electricity, and labor for constructed value (CV). The raw material, energy and labor factors for producing ferrosilicon are based on AIMCOR's actual experience from October 1990 through September 1991. Overhead expenses are expressed as a percentage of the cost of manufacture as experienced by AIMCOR.

Petitioners based labor and electricity values on 1990 wage rates and 1991 energy rates in Mexico. Petitioners based the value of raw material costs for steel scrap, quartzite, coke,

bituminous coal, and charcoal on 1991 f.a.s export values from the United States to Mexico. Petitioners added an amount for foreign inland freight expense to Mexico for these raw materials. Petitioners based the value of raw material costs for electrode paste on a delivered import price from Brazil to Mexico. Petitioners based raw material costs for diesel oil, woodchips, water and other processing materials on its own average costs from October 1990 through September 1991.

Pursuant to section 773(c) of the Act, petitioners added to CV the statutory minima of 10 percent for general expenses and eight percent for profit, and an amount for shipment preparation.

#### PRC

Petitioners based their estimate of USP on the average U.S. f.o.b. import value of ferrosilicon for the period September 1991 to February 1992. Petitioners made no adjustments to the estimated USP because they stated that they were unable to obtain information regarding foreign transportation costs.

Petitioners contend that the FMV of PRC-produced imports subject to this investigation must be determined in accordance with section 773(c) of the Act, which concerns NME countries. In accordance with section 771(18)(c) of the Act, the PRC is presumed to be an NME and the Department has treated it as such in previous investigations (see, Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings from the PRC, 57 FR 21058 (May 18, 1992)). In the course of this investigation, parties will have the opportunity to raise and provide relevant information on this issue, as well as on whether FMV should be based on prices or costs in the NME. The Department further presumes, based on the extent of central control in an NME, that a single antidumping margin, should there be one, is appropriate for all exporters from the NME. Only if individual NME exporters can demonstrate an absence of central government control with respect to the pricing of exports, both in law and in fact, will they be entitled to separate, company-specific rates. (See, Sparklers, *supra*.)

In accordance with 773(c), FMV in NME cases is based on NME producers' factors of production (valued in a market economy country). Absent evidence that the PRC government has selected which factories produce for export to the United States, for purposes of this investigation we intend to base FMV only on those factories in the PRC



which are known to produce ferrosilicon for export to the United States.

Petitioners calculated FMV on the basis of the valuation of the factors of production. In valuing the factors of production, petitioners used India as a surrogate country. For purposes of this initiation, we have accepted India as having a comparable economy and being a significant producer of comparable merchandise, pursuant to section 773(c)(4) of the Act.

Petitioners used AIMCOR's factors for raw material and processing material inputs, electricity, and labor for CV. The raw material, energy and labor factors for producing ferrosilicon are based on AIMCOR's actual experience from October 1990 through September 1991. However, petitioners made an adjustment to the labor factor to account for the smaller scale of more labor-intensive ferrosilicon operations existing in the PRC. Overhead expenses are expressed as a percentage of the cost of manufacture as experienced by AIMCOR.

Petitioners based labor and electricity values on 1991 wage rates and energy rates in India. Petitioners based the value of raw material costs for steel scrap, quartzite, coke, bituminous coal, diesel fuel, and water on Indian values. Petitioners based the value of raw material costs for electrode paste on a delivered import price from Italy to India. Petitioners based material costs for charcoal and woodchips, and other processing materials on AIMCOR's average costs from October 1990 through September 1991.

Pursuant to section 773(c) of the Act, petitioners added to CV the statutory minima of 10 percent for general expenses and eight percent for profit, and an amount for shipment preparation.

#### Russia

Petitioners based their estimate of USP on the average U.S. f.o.b. import value of ferrosilicon from the former U.S.S.R. for the period September 1991 to February 1992. U.S. Customs statistics for imports from Russia were not available because the U.S. import statistics did not differentiate U.S. imports of the subject merchandise from the former republics of the U.S.S.R. The Department will conduct a separate investigation of the subject merchandise produced in Russia and will collect and analyze the USP data from specific exporters and/or producers in this proceeding. Petitioners made no adjustments to the estimated USP because they stated that they were unable to obtain information regarding foreign transportation costs.

Petitioners contend that the FMV of Russian-produced imports subject to this investigation must be determined in accordance with section 773(c) of the Act, which concerns NME countries. In accordance with section 771(18)(c) of the Act, any determination that a foreign country has at one time been considered an NME shall remain in effect until revoked. This presumption covers the geographic area of the former U.S.S.R., each part of which retains the previous NME status of the former U.S.S.R. Therefore, Russia will continue to be treated as an NME until this presumption is overcome (see, *Uranium, supra*).

In the course of this investigation, parties will have the opportunity to raise and provide relevant information on this issue, as well as on whether FMV should be based on prices or costs in the NME. The Department further presumes, based on the extent of central control in a NME, that a single antidumping margin, should there be one, is appropriate for all exporters from the NME. Only if individual NME exporters can demonstrate an absence of central government control with respect to the pricing of exports, both in law and in fact, will they be entitled to separate, company-specific rates. (See, *Sparklers, supra*.)

In accordance with section 773(c), FMV in NME cases is based on NME producers' factors of production (valued in a market economy country). Absent evidence that the Russian government has selected which factories produce for export to the United States, for purposes of this investigation we intend to base FMV only on those factories in Russia which are known to produce ferrosilicon for export to the United States.

Petitioners calculated FMV on the basis of the valuation of the factors of production. Because Russia-specific economic data were not available at the time of the filing of the petition, due to the recent dissolution of the U.S.S.R., petitioners were unable to determine which market economy was most comparable to Russia in terms of economic development. Consequently, petitioners used publicly available economic data on the U.S.S.R. in order to select the appropriate surrogate. For further discussion of petitioners' choice of surrogate and calculation of FMV, see the "Kazakhstan" section of this notice.

#### Ukraine

Petitioners based their estimate of USP on the average U.S. f.o.b. import value of ferrosilicon from the former U.S.S.R. for the period September 1991 to February 1992. U.S. Customs statistics for imports from Ukraine were not

available because the U.S. import statistics did not differentiate U.S. imports of the subject merchandise from the former republics of the U.S.S.R. The Department will conduct a separate investigation of the subject merchandise produced in Ukraine and will collect and analyze USP data from specific exporters and/or producers in this proceeding. Petitioners made no adjustments to the estimated USP because they stated that they were unable to obtain information regarding foreign transportation costs.

Petitioners contend that the FMV of Ukrainian-produced imports subject to this investigation must be determined in accordance with section 773(c) of the Act, concerning NME countries. In accordance with section 771(18)(c) of the Act, any determination that a foreign country has at one time been considered an NME shall remain in effect until revoked. This presumption covers the geographic area of the former U.S.S.R., each part of which retains the previous NME status of the former U.S.S.R. Therefore, Ukraine will continue to be treated as an NME until this presumption is overcome (see, *Uranium, supra*). In the course of this investigation, parties will have the opportunity to raise and provide relevant information on this issue, as well as on whether FMV should be based on prices or costs in the NME. The Department further presumes, based on the extent of central control in a NME, that a single antidumping margin, should there be one, is appropriate for all exporters from the NME. Only if individual NME exporters can demonstrate an absence of central government control with respect to the pricing of exports, both in law and in fact, will they be entitled to separate, company-specific rates. (See, *Sparklers, supra*.)

In accordance with section 773(c), FMV in NME cases is based on NME producers' factors of production (valued in a market economy country). Absent evidence that the Ukrainian government has selected which factories produce for export to the United States, for purposes of this investigation we intend to base FMV only on those factories in Ukraine which are known to produce ferrosilicon for export to the United States.

Petitioners calculated FMV on the basis of the valuation of the factors of production. Because Ukraine-specific economic data were not available at the time of the filing of the petition, due to the recent dissolution of the U.S.S.R., petitioners were unable to determine which market economy was most comparable to Ukraine in terms of



economic development. Consequently, petitioners used publicly available economic data on the U.S.S.R. in order to select the appropriate surrogate. For further discussion of petitioners' choice of surrogate and calculation of FMV, see the "Kazakhstan" section of this notice.

#### Venezuela

Petitioners based their estimate of USP on the U.S. f.o.b. import value of ferrosilicon. Petitioners calculated separate USPs for two time periods: (1) September 1991 through February 1992 and (2) September 1991. Petitioners subtracted from each USP foreign inland freight charges.

Petitioners based their estimate of FMV on a price for ferrosilicon, exclusive of packing, obtained by a foreign consultant. Petitioners added U.S. packing to FMV.

#### Less Than Fair Value Comparisons

Petitioners allege dumping margins ranging from 20.52% to 113.27% for ferrosilicon from Argentina, 104.18% for Kazakhstan, Russia, and Ukraine, 137.73% for the PRC, and 22.99% to 23.80% for Venezuela. We recalculated the margins alleged for Argentina as described above. The recalculated margins range from 17.70% to 96.23%.

Regarding Venezuela, we do not consider petitioners' comparison of USP based on average September through February import data and FMV based on a price for a different period to be appropriate for purposes of initiation. Such a comparison involves non-contemporaneous sales. Consequently, the Department is initiating this investigation on the basis of petitioners' comparison of USP based on September 1991 import data and FMV.

#### Initiation of Investigations

We have examined the petitions on ferrosilicon from Argentina, Kazakhstan, Russia, the PRC, Ukraine, and Venezuela and have found that the petitions meet the requirements of section 732(c). Therefore, we are initiating antidumping duty investigations to determine whether imports of ferrosilicon from the above-referenced countries are being, or are likely to be, sold in the United States at less than fair value.

#### ITC Notification

Section 732(d) of the Act requires us to notify the International Trade Commission (ITC) of these actions and we have done so.

#### Preliminary Determinations by the ITC

The ITC will determine by July 6, 1992, whether there is a reasonable indication

that imports of ferrosilicon from Argentina, Kazakhstan, Russia, the PRC, Ukraine, and/or Venezuela are materially injuring, or threaten material injury to, a U.S. industry. Any ITC determination which is negative will result in the respective investigation being terminated; otherwise, the investigations will proceed to conclusion in accordance with the statutory and regulatory time limits.

The notice is published pursuant to section 732(c)(2) of the Act and 19 CFR 353.13(b).

Dated: June 11, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-14240 Filed 6-16-92; 8:45 am]

BILLING CODE 3510-DS-M

[C-307-808]

#### Initiation of Countervailing Duty Investigation: Ferrosilicon From Venezuela

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** June 17, 1992.

**FOR FURTHER INFORMATION CONTACT:** Paulo F. Mendes or Annika L. O'Hara, Office of Countervailing Investigations, U.S. Department of Commerce, room B099, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-5050 or (202) 377-0588, respectively.

#### INITIATION:

##### The Petition

On May 22, 1992, AIMCOR, Alabama Silicon, Inc., American Alloys, Inc., Globe Metallurgical, Inc., Silicon Metaltech, Inc., United Autoworkers of America—Local 523, United Steelworkers of America—Local 12646, United Steelworkers of America—Local 2528, United Steelworkers of America—Local 5171, United Steelworkers of America—Local 3081, and Oil, Chemical & Atomic Workers—Local 389 (hereinafter, the petitioners) filed with the Department of Commerce (the Department) a countervailing duty petition on behalf of the United States industry producing ferrosilicon. In accordance with section 702(b) of the Tariff Act of 1930, as amended (the Act), the petitioners allege that manufacturers, producers, or exporters of ferrosilicon in Venezuela receive bounties or grants within the meaning of section 701 of the Act. In past countervailing duty investigations, Venezuela was considered to be a

"country under the Agreement" within the meaning of section 701(b)(3) of the Act. As such, Title VII of the Act applied in those investigations, and the U.S. International Trade Commission (ITC) was required to determine whether imports of the subject merchandise from Venezuela were materially injuring, or threatened material injury to, a U.S. industry before countervailing duties could be imposed.

On August 31, 1990, Venezuela became a contracting party to the General Agreement on Tariffs and Trade (GATT). Since qualification as a "country under the Agreement" under section 701(b)(a) requires that the GATT not apply between the United States and the country from which the subject merchandise is imported, Venezuela is no longer eligible for treatment as a "country under the Agreement" within the meaning of section 701(b)(3). However, because Venezuela is a GATT contracting party, and merchandise within the scope of the petition which is imported under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7202.21.1000, 7202.21.5000, 7202.29.0010, and 7202.29.0050 is nondutiable, the petitioners are nonetheless required to allege that, and the ITC is required to determine whether, pursuant to section 303(a)(2), imports of this nondutiable merchandise from Venezuela materially injure, or threaten material injury to, a U.S. industry. The remaining HTSUS items, as described in the "Scope of Investigation" section of this notice, are dutiable. Therefore, for these items, the ITC is not required to determine whether, pursuant to section 303(a)(2), imports from Venezuela of these products materially injure, or threaten material injury to, a U.S. industry.

The petitioners stated that they have standing to file the petition because they are interested parties, as defined in sections 771(9)(C) and 771(9)(D) of the Act. In addition, the petitioners stated that the union petitioners have standing independent of the producer petitioners. The union petitioners represent workers at several facilities currently producing ferrosilicon in the United States; such facilities employ the majority of the ferrosilicon production workers in the United States. If any interested party, as described in sections 771(9)(C), (D), (E), or (F) wishes to register support for, or opposition to, this investigation, please file written notification with the Assistant Secretary for Import Administration, room B099, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.



**Allegation of Bounties or Grants**

The petitioners allege that the following programs provide bounties or grants to producers of the subject merchandise in Venezuela:

1. Preferential Power Rates
2. Preferential Rates from Government of Venezuela (GOV)-owned corporate affiliates
3. GOV Grants
4. GOV's Assumption of Debt
5. GOV's Equity Infusions
6. General Interest Rate Subsidy
7. Sales Tax Exemption
8. Preferential Short-term Financing—FINEXPO
9. Other Preferential FINEXPO Financing

We are not investigating certain programs alleged to be benefitting producers of the subject merchandise in Venezuela. The petitioners point to FESILVEN's financial statements as evidence that accounts payable at year-end amount to preferential rates provided by GOV-owned corporate affiliates. However, because the evidence provided concerning accounts payable does not indicate that benefit is being provided in this case, we are not investigating this program. We are also not investigating the alleged equity infusion because the petitioners provided insufficient evidence to support their claim that the equity infusion was made on terms inconsistent with commercial considerations. Finally, we are not investigating the alleged general interest rate subsidy. The evidence provided by the petitioners does not take into account the terms of FESILVEN's loans in connection with the company's expansion plan.

Under the Department's regulations, any producer or reseller seeking exclusion from a potential countervailing duty order must submit its request for exclusion within 30 days of the date of the publication of this notice. The procedures and requirements regarding the filing of such requests are contained in 19 CFR 355.14.

**Initiation of Investigation**

Under section 702(c) of the Act, the Department must determine, within 20 days after a petition is filed, whether the petition properly alleges the basis on which a countervailing duty may be imposed under section 701(a) of the Act, and whether the petition contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on ferrosilicon from Venezuela and have found that it complies with the requirements of section 702(b) of the

Act. Therefore, in accordance with section 702 of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters of ferrosilicon receive bounties or grants.

**Scope of Investigation**

The product covered by this investigation is ferrosilicon, a ferroalloy generally containing, by weight, not less than four percent iron, more than eight percent but not more than 96 percent silicon, not more than 10 percent chromium, not more than 30 percent manganese, not more than three percent phosphorous, less than 2.75 percent magnesium, and not more than 10 percent calcium or any other element.

Ferrosilicon is a ferroalloy produced by combining silicon and iron through smelting in a submerged-arc furnace. Ferrosilicon is used primarily as an alloying agency in the production of steel and cast iron. It is also used in the steel industry as a deoxidizer and reducing agent, and by cast iron producers as an inoculant.

Ferrosilicon is differentiated by size and by grade. The sizes express the maximum and minimum dimensions of the lumps of ferrosilicon found in a given shipment. Ferrosilicon grades are defined by the percentages of weight of contained silicon and other minor elements. Ferrosilicon is most commonly sold to iron and steel industries in standard grades of 75 percent and 50 percent ferrosilicon.

Calcium silicon, ferrocalcium silicon, and magnesium ferrosilicon are specifically excluded from the scope of this investigation. Calcium silicon is an alloy containing, by weight, not more than five percent iron, 60 to 65 percent silicon, and 28 to 32 percent calcium. Ferrocalcium silicon is a ferroalloy contained by weight not less than four percent iron, 60 to 65 percent silicon, and more than 10 percent calcium. Magnesium ferrosilicon is a ferroalloy containing, by weight, not less than four percent iron, not more than 55 percent silicon, and not less than 2.75 percent magnesium.

Ferrosilicon is classifiable under the following subheadings of the HTSUS: 7202.21.1000, 7202.21.5000, 7202.21.7500, 7202.21.9000, 7202.29.0010, and 7202.29.0050. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

**ITC Notification**

Section 702(d) of the Act requires us to notify the ITC of these actions and we have done so.

**Preliminary Determination by the ITC**

The ITC will determine, by July 6, 1992, whether there is a reasonable indication that an industry in the United States is being materially injured, or is threatened with material injury, by reason of imports from Venezuela of certain products covered in the scope of this investigation. If the ITC determination is negative, our investigation with respect to the products classified under HTSUS items 7202.21.1000, 7202.21.5000, 7202.29.0010, and 7202.29.0050 will terminate; otherwise, it will proceed according to the statutory and regulatory time limits.

This notice is published pursuant to 702(c)(2) of the Act and 19 CFR 355.13(b).

Dated: June 11, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-14241 Filed 6-16-92; 8:45 am]

BILLING CODE 3510-DS-M

[C-351-812, C-427-805, C-428-812, C-412-811]

**Postponement of Preliminary Determinations; Certain Hot Rolled Lead and Bismuth Carbon Steel Products From Brazil, France, Germany, and the United Kingdom**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** June 17, 1992.

**FOR FURTHER INFORMATION CONTACT:** For Brazil contact Phil Pia (202-377-3691), Office of Countervailing Compliance, for Germany contact Rick Herring (377-3530), for France contact Vincent Kane (377-2815), and for the United Kingdom contact Stephanie Hager (377-5055), Office of Countervailing Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

**POSTPONEMENT:** On May 8, 1992, the Department published in the *Federal Register* the initiation of countervailing duty investigations on certain hot rolled lead and bismuth carbon steel products from Brazil, France, Germany, and the United Kingdom (57 FR 19884). Our preliminary determinations were originally scheduled for July 7, 1992.

In accordance with section 703(c)(1)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 355.15(b), we determine these investigations to be extraordinarily complicated due to the number and



complexity of the subsidy programs alleged, including regional, national, and European Community programs, and the novel issues raised. Among the novel issues raised are privatization and the impact of corporate structures and corporate restructuring on the bestowal of benefits upon the companies under investigation.

For these reasons, we determine that these investigations are extraordinarily complicated. We further determine that the governments and other parties are cooperating and that additional time is necessary to make these preliminary determinations. Therefore, in accordance with section 703(c)(1)(B) of the Act and 19 CFR 355.15(b), we are postponing the preliminary determination for each investigation to no later than September 10, 1992.

This notice is published pursuant to section 703(c)(2) of the Act and 19 CFR 355.15(e).

Dated: June 11, 1992.

Alan M. Dunn,  
Assistant Secretary for Import  
Administration.

[FR Doc. 92-14242 Filed 6-16-92; 8:45 am]

BILLING CODE 3510-DS-M

## National Oceanic and Atmospheric Administration

[CFDA No. 11.431; Docket No. 920408-2108]

### NOAA Climate and Global Change Program—Program Announcement

**AGENCY:** National Oceanic and Atmospheric Administration, Department of Commerce.

**ACTION:** Notice.

**SUMMARY:** The National Oceanic and Atmospheric Administration (NOAA) began the Climate and Global Change Program (Program) in 1989. This Program contributes to the evolving national and international programs designed to improve our ability to observe, understand, predict, and respond to changes in the global environment. The Program builds on NOAA's mission requirements and longstanding capabilities in global change research and prediction.

NOAA's Climate and Global Change Program is a key contributing element of the U.S. Global Change Research Program (USGRP), which is coordinated by the interagency Committee on Earth and Environmental Sciences. NOAA's Program is designed to complement other agency contributions to that national effort, including, in particular, the Earth System Science activities of the National Aeronautics and Space

Administration and the Global Geosciences Program of the National Science Foundation.

NOAA believes that the Climate and Global Change Program will benefit significantly from a strong partnership with outside investigators. Current Program plans assume that 30-35% of the total resources available will support extramural efforts, particularly those involving the broad academic community. The President's budget request for the Climate and Global Change Program is \$78 million in FY93.

This Program Announcement is for short duration projects to be conducted by investigators over a one to two year period. Based upon the actual appropriation received, NOAA anticipates as much as \$8 million (approximately 10% of anticipated FY93 program funds) will be applied toward extramural grants and cooperative agreements already in progress. Similarly, as much as \$18 million (approximately 23% of anticipated FY93 funding) is expected to be devoted for new starts, the majority of which will be applied to extramural grants and cooperative agreements. Actual funding levels are dependent upon the President's FY93 budget request and the final FY93 appropriations.

**DATES:** Proposals must be submitted on or before July 17, 1992.

**ADDRESSES:** Proposals may be submitted to: Office of Global Programs, National Oceanic and Atmospheric Administration, 1100 Wayne Avenue, suite 1225, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** The individual project managers listed in the Program Priorities section, below, or the Office of Global Programs, National Oceanic and Atmospheric Administration, at the address given above, (301) 427-2089 [OMNET: NOAA.GP].

#### SUPPLEMENTARY INFORMATION:

##### Program Authority

49 U.S.C. 1463; 15 U.S.C. 313; 15 U.S.C. 2901; and 15 U.S.C. 2921.

##### Program Objectives

The long term objective of the Climate and Global Change Program is to provide reliable predictions of global climate change and associated regional implications on time scales ranging from seasons to a century or more. NOAA believes that these time scales can be studied with an acceptable probability of success and are the most relevant for fundamental social concerns. Predicting the behavior of the coupled ocean-atmosphere-land surface system will characterize NOAA's role in a

successful national effort to deal with observed or anticipated changes in the global environment.

#### Program Priorities

In FY 1992, NOAA will give priority attention to individual proposals in the areas described below.

**Atmospheric Chemistry**—The Atmospheric Chemistry Project focuses on global monitoring, process-oriented laboratory and field studies, and theoretical modeling to improve the predictive understanding of atmospheric trace gases that influence the Earth's chemical and radiative balance. FY93 grants in Atmospheric Chemistry will focus on studies associate with the International Global Atmospheric Chemistry (IGAC) program of the International Geosphere-Biosphere Programme (IGBP). Proposals are solicited for the following: (i) (highest priority) the North Atlantic Regional Study (NARE), with emphasis on intensive field studies and modeling; (ii) the international Support Activity: Intercalibrations/intercomparisons, with emphasis on the Nonmethane Hydrocarbon Intercomparison Experiment; (iii) the East Asian/North Pacific Regional Experiment (APARE), with emphasis on coordination of ground-based chemical processes; and (iv) the Northern Wetlands Study (NOWES) and associated programs, with emphasis on atmospheric chemical processes. For an information sheet containing further details, contact: Daniel L. Albritton or Fred C. Fehsenfeld, NOAA/Aeronomy Laboratory, Boulder, CO, 303-497-5785, or -5819 [OMNET: D.Albritton].

**Surface and Upper Ocean Observations**—This program focuses on long-term, *in situ* ocean observations needed to assess climate and global change. The long range goal is to establish an effective system for *in situ* ocean observations in support of the U.S. Global Change Program. In FY93, observational programs will focus on measurements of the upper ocean temperature field on a global basis, the surface temperature and thickness of the high latitude ice cover, the sea surface and upper ocean salinity and sea surface meteorology. This Program also will give priority to observing system simulation experiments (OSSE) aimed at sampling strategy and optimum design studies for the parameters listed above. Priority will be given to projects in support of measurement requirements of the Tropical Ocean Global Atmosphere (TOGA) Program, the Global Energy and Water Cycle Experiment (GEWEX), the World Ocean Circulation Experiment



(WOCE), the Joint Global Ocean Flux Studies (JGOFS), the Atlantic Climate Change Program (ACCP), and the Arctic System Science (ARCSS) initiative. For further information contact: William Woodward, NOAA/National Ocean Service, Rockville, MD, 301-443-8110 [OMNET: W.Woodward].

**Global Sea Level**—The goal of the Global Sea Level Program is to monitor, understand, and predict global sea level change. Proposals for research and development are sought to enhance our understanding of past, present, and future rates of change in global sea level. For FY93, priority will be given to the following topics: (i) Analysis of sea level variability in the deep oceans on interdecadal and longer time scales and its relation to coastal tide gauge measurements; (ii) research on the phenomenon of postglacial rebound; (iii) analysis of the existing global sea level record; (iv) assimilation of satellite altimeter data into ocean models; and (v) improved environmental and other corrections for Very Long Baseline Interferometry (VLBI) and Global Positioning System (GPS). For further information contact: Bruce Douglas, NOAA/National Ocean Service, Rockville, MD, 301-443-8858 [OMNET: NOAA.GEOSAT].

**Atlantic Climate Change**—The goal of this project is to determine the nature and influence of the interactions between the meridional circulation of the Atlantic Ocean, sea surface temperature and salinity, and the global atmosphere. Proposals are sought in the following areas: (i) Seasonal to decadal variability in the climate system resulting from interactions between the global atmosphere and the North Atlantic Ocean [These studies should be model-based or utilize existing observational data.]; (ii) monitoring of the ocean structure in the Grand Banks and adjacent Newfoundland Basin, particularly mechanisms that control sea surface temperature anomalies and meridional thermohaline fluxes; and (iii) compilation and analysis of observations collected in the tropical Atlantic to study interhemispheric and intergyre exchange and to develop monitoring strategies. Observational studies directed at developing strategies for monitoring the intensity of tropical thermohaline circulation also will be considered. For further information contact: David Goodrich, NOAA/Office of Global Programs, Silver Spring, MD, 301-427-2089 x38 [OMNET: D.Goodrich].

**Tracers and WOCE Hydrography**—As part of NOAA's contribution to the World Ocean Circulation Experiment (WOCE), proposals are sought for tracer

observations on upcoming WOCE hydrographic cruises. Of particular interest are studies employing tracers operating on decadal to centennial time scales, including chlorofluorocarbons, helium/tritium, and C-14. It is anticipated that WOCE-related proposals will be jointly-reviewed by NOAA and the National Science Foundation. For further information contact: David Goodrich, NOAA/Office of Global Programs, Silver Spring, MD, 301-427-2089 x38 [OMNET: D. Goodrich].

**Ocean—Atmosphere Carbon Fluxes**—As part of NOAA's contribution to the Joint Global Ocean Flux Study (JGOFS), and as a continuing effort aimed at enhancing our understanding of the role of the ocean in sequestering the increasing burden of anthropogenically-derived carbon dioxide in the atmosphere, proposals are sought for planned 1993 NOAA research cruises along 110° W (South Pacific) and 20° W (North Atlantic). Proposals addressing the measurement of specific chemical variables including alkalinity, pH, nutrients, dissolved organic carbon, dissolved organic nitrogen, primary productivity, and carbon isotopes are encouraged. For an information sheet containing further details, contact: James F. Todd, NOAA/Office of Global Program, Silver Spring, MD, 301-427-2089 x32 [OMNET: J. Todd].

**Tropical Oceans and Global Atmosphere (TOGA)**—The goal of the TOGA Program is to understand and model the coupled variations of the global atmospheric circulation and tropical ocean circulation for the purpose of predicting the inter-annual variability of the atmospheric regime. TOGA supports research in the areas of monitoring and data management, empirical studies, and modeling and prediction. For further information contact: Kenneth Mooney, NOAA/Office of Global Programs, Silver Spring, MD, 301-427-2089 x14 [OMNET: K. Mooney].

**Climate Modeling and Prediction**—The long-term goal of this program is to model and predict climate variability on time and space scales relevant to global change. For FY93, priority will be given to establishment of regional modeling centers. However, limited funding will be available for projects which support: (i) Research contributing to description of the fully coupled climate system; (ii) identification of the characteristics of past fluctuations in the climate system; and (iii) the prediction of future climate system states. This program also includes support for prediction research by both the Dynamic Extended Range

Forecasting, TOGA, Atlantic Climate Change, and Atmospheric and Land Surface Programs. For further information contact: David Goodrich, Michael Coughlan or Kenneth Mooney, NOAA/Office of Global Programs, Silver Spring, MD, 301-427-2089 [OMNET: D. Goodrich, M. Coughlan, or K. Mooney].

**Operational Measurements**—The goal of this project is to develop and produce climate and global change information products from NOAA operational measurement systems, including environmental satellite and *in situ* observing systems. Priority will be given to satellite-based or combined satellite/*in situ* products representing the following: (i) Oceanic variables; (ii) land surface variables; (iii) Earth radiation budget, atmospheric water vapor, clouds and aerosols; (iv) temperature, moisture and wind soundings; (v) stratospheric variables; and (vi) precipitation (see also: Atmospheric and Land Processes Project). Activities include: Instrument calibration; monitoring in support of climate and global change requirements; development and testing of algorithms for remote sensing products; generation of operational data and information products; product validation; development and generation of integrated satellite/*in situ* products; and product evaluation and application. Proposals dealing with the planetary and surface radiation budget, development of climate products from the Trios Operational Vertical Sounder (TOVS), and the production and evaluation of operational climate products, are encouraged. For further information contact: Thomas Kaneshige, NOAA/Office of Global Programs, Silver Spring, MD, 301-427-2089 x26 [OMNET: T. Kaneshige]; or Arnold Gruber, NOAA/NESDIS, Washington, DC 20233, 301-763-8053 [OMNET: A. Gruber].

**Information Management**—The goals of this project are: (i) To provide the organization and focus through which data producers, data managers, and data users actively participate in the design, implementation and review of the NOAA Climate and Global Change (C&GC) information management system; (ii) to assist in construction of data and information (metadata) sets required by C&GC researchers; (iii) to provide users with easy access to C&GC data and information; and (iv) to manage long-term C&GC data and information archives. Proposals are sought which support the data and information management goals of the NOAA C&GC Program. Priorities include construction of long-term



climate and global change data sets, information products involving data assembly, digitization quality control, data rescue, and information management in applicable national and international research programs. For further information contact: Thomas Kaneshige, NOAA/Office of Global Programs, Silver Spring, MD, 301-427-2089 x26 [OMNET: T. Kaneshige]; or Gregory Withee, NOAA/NESDIS, Washington, DC 20235, 202-606-4594 [OMNET: G. Withee].

**Atmospheric and Land Surface Processes**—Proposals are encouraged for research into the wide range of problems that limit our understanding of those atmospheric and land surface processes through which the overall energy and water balance of the Earth's climate system is maintained. Priority is given to proposals directed at understanding and modeling processes associated with: (i) Clouds, aerosols and water vapor, (ii) precipitation, and (iii) land surface hydrology. Proposals are encouraged which support the objectives of the Global Energy and Water Cycle Experiment (GEWEX), including the GEWEX Continental-Scale International Project (GCIP) which has the Mississippi Basin as its primary study area, and relevant aspects of BOREAS which is focussed on the boreal forest region of Canada. Detailed science plans have been prepared for GEWEX, GCIP and BOREAS. In view of strong mutual interests in conducting and supporting research directed at these programs, close coordination in reviewing and funding proposals will be maintained between NOAA and other USGCRP funding agencies such as NASA and NSF. For further information contact: Michael Coughlan, NOAA/Office of Global Programs, Silver Spring, MD, 301-427-2089 x40 [OMNET: M. Coughlan].

**Marine Ecosystem Response**—The principal objective of the Marine Ecosystem Response Program is to determine the relationship between ecosystem dynamics and the climatic variability associated with global change. This program is integrated with the USGCRP Global Ocean Ecosystem Dynamics (GLOBEC) program, which in turn is part of the emerging International GLOBEC. NOAA and the National Science Foundation (NSF) have agreed to jointly plan and support GLOBEC research. A joint solicitation for proposals, separate from this announcement, will be issued by NSF and NOAA at a later date. New proposals for FY 1992 NOAA funding will be entertained in the North Atlantic, Eastern Boundary Currents, and Coral

Reefs ecosystems, and for innovative/pilot studies. For further information contact Mark Eakin NOAA/Global Programs, Silver Spring, MD, 301-427-2089 x710 [OMNET: M. Eakin]; or Michael Sissenwine, NOAA/National Marine Fisheries Service, Silver Spring, MD, 301-427-2239 [OMNET: M. Sissenwine].

**Paleoclimatology**—The Paleoclimatology Program solicits proposals that will make significant advances in our understanding of decade to century-scale variability in the climate system. This includes use of new, high-resolution time series from climatically-sensitive areas presently without adequate data coverage (e. g., the tropics and southern hemisphere), and large data sets that can be used to reconstruct large-scale historical patterns of climatic change. FY93 funds will also be available for the development of databases used to verify climate and ocean models. For further information contact Mark Eakin, NOAA/Global Programs, Silver Spring, MD, 301-427-2089 x710 [OMNET: M. Eakin]; or Jonathan Overpeck of NOAA/National Geophysical Data Center, Boulder, CO, 303-497-6390 [OMNET: J. Overpeck].

**Economics**—The Economics Program has two primary research areas: (i) The value of information and decision-making under uncertainty; and (ii) impacts and adaptation. Examples of prototype research projects which strengthen ties between physical and economic modeling include: identification and characterization of the scientific and economic factors critical to decision-making; total cost analysis of response to accelerated sea level rise; economic impacts and management implications of climate change on Pacific fisheries; and development of standards for measuring differential environmental/economic impacts and forcing characteristics associated with various trace gases. For further information contact: Sally Kane, NOAA Office of the Chief Scientist, Washington, DC, 202-606-4360.

Proposal should indicate clearly which of these areas is being investigated. The names, affiliations, and phone numbers of Climate and Global Change project managers are provided above. Prospective applicants are encouraged to contact these individuals for further information. NOAA has a range of unique facilities and capabilities that can be applied to climate and global change investigations. Proposals that seek to exploit these resources in collaborative efforts between NOAA and extramural

investigators are encouraged. Proposals should be sent to the NOAA Office of Global Programs rather than to the individual project managers.

### Selection Criteria

Selection criteria, with approximate weights, are as follows:

(1) Scientific Merit (40%): (a) intrinsic scientific value of the study; and (b) importance and relevance to the goal of the Climate and Global Change Program and to the research areas listed above.

(2) Methodology (20%): (a) focused scientific objective and strategy, including measurement strategies and data management considerations where appropriate; and (b) time line and milestones, products.

(3) Readiness (20%): (a) nature of the problem; (b) relevant history and status of existing work; (c) level of planning, including existence of supporting documents; (d) strength of proposed scientific and management team; and (e) past performance record of proposers.

(4) Linkages (10%): (a) connections to existing or planned national and international programs; and (b) partnerships with other agency or NOAA participants, where appropriate.

(5) Costs (10%): (a) adequacy of proposed resources; (b) appropriate share of total available resources; (c) prospects for joint funding; and (d) identification of long term commitments. Matching funding is encouraged but is not required.

Extramural eligibility is not limited and is encouraged with the objective of developing a strong partnership with the academic community. Non-academic proposers are urged to seek collaboration with academic institutions. Funding for non-US institutions is not available under this announcement. Awards are made on the basis of competitive review. Each proposal receives independent mail review and is evaluated by one or more independent review panels. The time from target date to grant award varies with program area. Applicants will be notified of their status within 3 to 6 months.

### Proposal Requirements

Proposals submitted in response to this announcement should include the following:

(1) An original and two copies of the proposal.

Proposals must be limited to 30 pages (numbered), including budget, investigators' vitae, and all appendices, and should be limited to funding requests for one or two years duration. Proposals should be sent to the NOAA



Office of Global Programs at the address given in this notice. The target date for submission of proposals for the FY 93 funding cycle is 30 days after the date of publication of this notice.

(2) Signed title page and abstract.

The title page should be signed by the Principal Investigator (PI) and the institutional representative and should clearly indicate which project area is being addressed. The PI and institutional representative should be identified by full name, title, organization, telephone number and address.

(3) Statement of work.

The proposed project must be completely described, including identification of the problem, scientific objectives, proposed methodology, relevance to the goal of the Climate and Global Change Program, and relevance to the program priorities listed above. Benefits of the proposed project to the scientific community, governmental agencies and the general public should be discussed. An abstract must be included in the statement of work.

(4) Budget.

A detailed budget is required. Personnel costs, including salaries and fringe benefits, permanent equipment, expendable equipment, travel, publication costs, indirect costs and other costs such as those for supplies, printing, computer time, or utilities must be included.

(5) Vitae.

Abbreviated curriculum vitae are sought with each proposal. Reference lists should be limited to all publications in the last three years, with up to five other relevant papers.

(6) Other requirements.

(a) Applications for federal assistance must be submitted on Standard Form 424 (Rev 4-88), Standard Form 424A (4-88), and Standard Form 424B (Rev 4-88).

(b) All primary applicants must submit a completed Form CD-511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying."

(i) *Nonprocurement Debarment and Suspension*. Prospective participants (as defined at 15 CFR part 26, section 105) are subject to 15 CFR part 26, "Nonprocurement Debarment and Suspension," and the related section of Form CD-511.

(ii) *Drug Free Workplace*. Grantees (as defined at 15 CFR part 26, section 605) are subject to 15 CFR part 26, subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants)" and the related section of Form CD-511.

(iii) *Anti-Lobbying*. Persons (as defined at 15 CFR part 28, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of Form CD-511 apply to applications/bids for grants, cooperative agreements, and contracts for more than \$100,000, and loans and loan guarantees for more than \$150,000, or the single family maximum mortgage limit for affected programs, whichever is greater.

(iv) *Anti-Lobbying Disclosures*. Any applicant that has paid or will pay for lobbying using any funds must submit an SF-LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, appendix B.

(c) Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD-512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form SF-LLL. Form CD-512 is intended for the use of recipients and should not be transmitted to NOAA. SF-LLL submitted by any tier recipient or subrecipient should be submitted to NOAA in accordance with the instructions contained in the award document.

(d) Recipients and subrecipients are subject to all applicable Federal laws and Federal and Department of Commerce policies, regulations, and procedures applicable to Federal financial assistance awards.

(e) Applicants that incur costs prior to an award being made do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that may have been received, there is no obligation to the applicant on the part of the Department of Commerce to cover pre-award costs.

(f) This program is subject to the requirements of OMB Circular No. A-110, "Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," and 15 CFR part 24, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," as applicable. This program is excluded from coverage under Executive Order 12372.

(g) All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals

associated with the applicant have been convicted of, or is presently facing, criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management honesty or financial integrity.

(h) Applicants are reminded that inclusion of false information on an application can provide grounds for denying or terminating funds. In addition, unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

(i) Applicants who have an outstanding account receivable with the Federal Government may not be considered for funding until either:

(i) These debts have been paid;

(ii) A negotiated repayment schedule is established and at least one payment is received; or

(iii) Other arrangements satisfactory to the Department of Commerce are made to pay the debt.

(j) If an application is selected for funding, the Department of Commerce has no obligation to provide any additional future funding in connection with the award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of the Department of Commerce.

Dated: June 11, 1992.

Dr. J. Michael Hall,

Director, Office of Global Programs, National Oceanic and Atmospheric Administration.

[FR Doc. 92-14121 Filed 6-16-92; 8:45 am]

BILLING CODE 3510-12-M

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Adjustment of Import Limits for Certain Man-Made Fiber Textile Products Produced or Manufactured in Nepal

June 11, 1992.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs reducing limits.

**EFFECTIVE DATE:** June 19, 1992.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or



call (202) 566-5810. For information on embargoes and quota re-openings, call (202) 377-3715.

#### SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for Categories 640 and 641 are being reduced for carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the **CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States** (see **Federal Register** notice 56 FR 60101, published on November 27, 1991). Also see 56 FR 56507, published on November 5, 1991.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

**Auggie D. Tantillo,**  
*Chairman, Committee for the Implementation of Textile Agreements.*

**Committee for the Implementation of Textile Agreements**  
June 11, 1992.

Commissioner of Customs,  
*Department of the Treasury, Washington, DC 20229.*

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 31, 1991, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Nepal and exported during the twelve-month period which began on January 1, 1992 and extends through December 31, 1992.

Effective on June 19, 1992, you are directed to amend the October 31, 1991 directive to reduce the limits for the following categories, as provided under the terms of the current bilateral textile agreement between the Governments of the United States and the Nepal:

Category	Twelve-month limit
640.....	109,111 dozen.
641.....	250,470 dozen.

<sup>1</sup> The limits have not been adjusted to account for any imports exported after December 31, 1991.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,  
**Auggie D. Tantillo,**  
*Chairman, Committee for the Implementation of Textile Agreements.*  
[FR Doc. 92-14168 Filed 6-16-92; 8:45 am]  
BILLING CODE 3510-DR-F

#### Announcement of a Request for Public Comments on Bilateral Textile Consultations with the Government of India on Certain Cotton and Man-Made Fiber Textile Products

June 11, 1992.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Notice.

**FOR FURTHER INFORMATION CONTACT:**  
**Jennifer Tallarico,** International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

#### SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

On May 29, 1992, the Government of the United States requested consultations with the Government of India with respect to pajamas and other nightwear in Categories 351/651.

Under the terms of the Bilateral Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Agreement of February 6, 1987, as amended and extended, between the Governments of the United States and India, the United States reserves the right to establish a limit of 45,080 dozen for the ninety-day consultation period which began on May 29, 1992 and extends through August 26, 1992.

If no solution is agreed upon in consultations between the two governments, CITA, pursuant to the agreement, may later establish a specific limit for the entry and withdrawal from warehouse for consumption of textile products in Categories 351/651, produced or manufactured in India and exported during the prorated period beginning on May 29, 1992 and extending through December 31, 1992, of not less than 91,639 dozen.

A summary market statement concerning Categories 351/651 follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Categories 351/651, under the agreement with the Government of India, or to comment on domestic production or availability of products included in Categories 351/651,

is invited to submit 10 copies of such comments or information to **Auggie D. Tantillo, Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230; ATTN: Helen L. LeGrande.** The comments received will be considered in the context of the consultations with the Government of India.

Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Further comments may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

The United States remains committed to finding a solution concerning Categories 351/651. Should such a solution be reached in consultations with the Government of India, further notice will be published in the **Federal Register**.

A description of the textile and apparel categories in terms of HTS numbers is available in the **CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States** (see **Federal Register** notice 56 FR 60101, published on November 27, 1991).

**Auggie D. Tantillo,**  
*Chairman, Committee for the Implementation of Textile Agreements.*

#### Market Statement—India

**Category 351/651—Men's and Boys' and Women's and Girls' Cotton and Man-Made Fiber Pajamas and Other Nightwear**  
May 1992

#### Import Situation and Conclusion

U.S. imports of men's and boys' and women's and girls' cotton and man-made fiber pajamas and other nightwear, Category 351/651, from India reached 152,327 dozen in the year ending March 1991, 72 percent above the 88,310 dozen imported a year earlier. During the first three months of 1992 imports of Category 351/651 from India



reached 76,067 dozen, 82 percent above their January-March 1991 level.

The sharp and substantial increase in Category 351/651 imports from India is causing a real risk of disruption in the U.S. market for men's and boys' and women's and girls' cotton and man-made fiber pajamas and other nightwear.

#### *U.S. Production and Market Share*

U.S. production of men's and boys' and women's and girls' cotton and man-made fiber pajamas and other nightwear, Category 351/651, declined from 16,173 thousand dozen in 1987 to 11,393 thousand dozen in 1991, a 30 percent decline. The domestic manufacturers' share of the U.S. men's and boys' and women's and girls' cotton and man-made fiber pajamas and other nightwear market fell from 75 percent in 1987 to 58 percent in 1991, a drop of 17 percentage points.

#### *U.S. Imports and Import Penetration*

U.S. imports of men's and boys' and women's and girls' cotton and man-made fiber pajamas and other nightwear, Category 351/651, increased from 5,360 thousand dozen in 1987 to 8,109 thousand dozen in 1991, an increase of 51 percent. Category 351/651 imports continue to increase in 1992, up 10 percent in the first three months of 1992 over the January-March 1991 level. The ratio of imports to domestic production doubled increasing from 33 percent in 1987 to 71 percent in 1991.

#### *Duty-Paid Value and U.S. Producers' Price*

Approximately 80 percent of Category 351/651 imports from India during the year ending March 1992 entered under HTSUSA number 6208.21.0020—women's cotton nightdresses and pajamas other than of yarn dyed fabrics. These nightdresses and pajamas entered the U.S. at landed duty-paid values below U.S. producers' prices for comparable nightwear.

[FR Doc. 92-14167 Filed 6-16-92; 8:45 am]

BILLING CODE 3510-DR-F

### **Request for Public Comments on Bilateral Textile Consultations with Oman on Certain Cotton Textile Products**

June 11, 1992.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Notice.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on

categories for which consultations have been requested, call (202) 377-3740.

#### **SUPPLEMENTARY INFORMATION:**

**Authority:** Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

On May 31, 1992, under the terms of Section 204 of the agricultural Act of 1956, as amended, the Government of the United States requested consultations with the Government of Oman with respect to cotton trousers, breeches and shorts in Categories 347/348, produced or manufactured in Oman.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations with the Government of Oman, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of cotton textile products in Categories 347/348, produced or manufactured in Oman and exported during the twelve-month period which began on May 31, 1992 and extends through May 30, 1993, at a level of not less than 617,492 dozen.

A summary market statement concerning Categories 347/348 follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Categories 347/348, or to comment on domestic production or availability of products included in Categories 347/348, is invited to submit 10 copies of such comments or information to Auggie D. Tantillo, Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230; ATTN: Helen L. LeGrande. The comments received will be considered in the context of the consultations with the Government of Oman.

Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Further comments may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a

waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

The United States remains committed to finding a solution concerning Categories 347/348. Should such a solution be reached in consultations with the Government of Oman, further notice will be published in the *Federal Register*.

A description of the textile and apparel categories in terms of HTS numbers is available in the *CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States* (see *Federal Register* notice 56 FR 60101, published on November 27, 1991).

Auggie D. Tantillo,

*Chairman, Committee for the Implementation of Textile Agreements.*

#### **Market Statement—Oman**

**Category 347/348—Trousers, Slacks, and Shorts**

**May 1992**

#### *Import Situation and Conclusion*

U.S. imports of cotton trousers, slacks, and shorts, Category 347/348, from Oman surged to 661,969 dozen in the year ending in March 1992, double the 328,470 dozen imported during the year ending March 1991. During the first three months of 1992, imports of Category 347/348 from Oman reached 325,023 dozen, two and one half times the 130,422 dozen imported in January-March 1991, and 70 percent of Oman's total calendar year 1991 imports.

The sharp and substantial increase in Category 347/348 imports from Oman is causing disruption in the U.S. market for cotton trousers, slacks, and shorts.

#### *U.S. Production, Import Penetration, and Market Share*

U.S. production of cotton trousers, slacks, and shorts, Category 347/348, declined from 48,816 thousand dozen in 1987 to 46,749 thousand dozen in 1991, a decline of 4 percent. U.S. imports of cotton trousers, slacks, and shorts, Category 347/348, increased from 29,132 thousand dozen in 1987 to 39,448 thousand dozen in 1991, an increase of 35 percent. Category 347/348 imports continue to increase in 1992, up 39 percent in the first three months of 1992 over the January-March 1991 level. The ratio of imports to domestic production increased from 60 percent in 1987 to 84 percent in 1991, an increase of 24 percentage points. The domestic manufacturers' share of the U.S. cotton



trousers market fell from 63 percent in 1987 to 54 percent in 1991.

*Duty-Paid Value and U.S. Producers' Price*

Approximately 80 percent of Category 347/348 imports from Oman during the year ending March 1992 entered under HTSUSA numbers 6203.42.4015—men's woven cotton trousers other than of corduroy and denim; 6203.42.4050—men's woven cotton shorts; 6203.42.4060—boys' woven cotton shorts; 6204.62.4020—women's woven cotton trousers other than of corduroy and denim and 6204.62.4055—women's cotton woven shorts. These trousers and shorts entered the U.S. at landed duty-paid values below U.S. producers' prices for comparable garments.

[FR Doc. 92-14169 Filed 6-16-92; 8:45 am]

BILLING CODE 3510-DR-F

## CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 92-C0002]

### General Electric Company, Inc., a Corporation; Provisional Acceptance of a Settlement Agreement and Order

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Provisional Acceptance of a Settlement Agreement under the Consumer Product Safety Act.

**SUMMARY:** It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the Federal Register in accordance with the terms of 16 CFR 1118.20(e). Published below is a provisionally accepted Settlement Agreement with General Electric Company, Inc., a corporation.

**DATES:** Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by July 2, 1992.

**ADDRESSES:** Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 92-C0002, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

**FOR FURTHER INFORMATION CONTACT:** William J. Moore, Jr., Trial Attorney, Office of Compliance and Enforcement, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504-0626.

**SUPPLEMENTARY INFORMATION:** See Settlement Agreement and Order which appear below.

Dated: June 1, 1992.

Sheldon D. Butts,

Deputy Secretary.

### UNITED STATES OF AMERICA CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of General Electric Company, Inc., a corporation; Settlement Agreement and Order

[CPSC Docket No. 92-C0002]

1. This Settlement Agreement and Order, entered into between General Electric Company, Inc., a corporation ("GE"), and the staff of the Consumer Product Safety Commission ("staff"), is a compromise resolution of the matter described herein, without a hearing or determination of issues of law and fact.

2. The provisions of this Settlement Agreement and Order shall apply to GE and to each of its successors and assigns.

#### I. The Parties

3. The "staff" is the staff of the Consumer Product Safety Commission ("Commission"), an independent federal regulatory agency of the United States of America, established by Congress pursuant to section 4 of the Consumer Product Safety Act (CPSA), as amended, 15 U.S.C. 2053.

4. GE is a corporation organized and existing under the laws of the State of New York, with its principal place of business located in Schenectady, New York.

#### II. Jurisdiction

5. GE has distributed certain models of automatic drip coffeemakers ("coffeemakers"), (a) for sale to a consumer for use in or around a permanent or temporary household or residence, in recreation or otherwise, or (b) for the personal use, consumption or enjoyment of a consumer in or around a permanent or temporary household or residence, in recreation or otherwise. The coffeemakers are "consumer products" within the meaning of section 3(a)(1) of the CPSA, 15 U.S.C. 2052(a)(1).

6. GE manufactured and distributed the coffeemakers for sale to consumers throughout the United States. GE, therefore, is a "manufacturer" of a "consumer product" which is "distributed in commerce," as those terms are defined in sections 3(a)(1), (4) and (11) of the CPSA, 15 U.S.C. 2052(a)(1), (4) and (11).

#### III. The Product

7. GE manufactured, and distributed, and sold approximately nine million (9,000,000) single fuse drip coffeemakers from April 1977 through April 1984.

These coffeemakers use a model No. 4415 thermal cut off ("TCO"), a safety device manufactured by a third party, to prevent overheating.

#### IV. Staff Allegations of the Failure of GE to Comply With the Reporting Requirements of Section 15(b) of the CPSA

8. From 1982 through 1990, GE received an increasing number of claims and lawsuits alleging that coffeemakers containing the 4415 TCO had overheated or caught fire. By September 1989, claims and lawsuits against GE exceeded 300 in number. The complaints received by GE included claims of extensive fire damage, personal injury and loss of life.

9. On August 22, 1990, GE submitted to the Commission a report under section 15(b) of the CPSA. The report described GE's concerns about the shortcomings of the 4415 TCO. The Commission staff contends that, before August 22, 1990, GE had information which reasonably supported the conclusion that GE 4415-fuse coffeemakers contained a defect which could create a substantial product hazard; and that GE failed to report that information to the Commission in a timely manner as required by section 15(b) of the CPSA, 15 U.S.C. 2064(b).

#### V. Response of GE

10. GE responds as follows: In September 1989 GE received its first notification of a valid claim involving serious injuries and the loss of two lives in a fire attributable to the coffeemaker. Following that notification, GE conducted engineering analyses which led to the filing of its report to the Commission on August 22, 1990. Based on the number and nature of the claims it received and the information in GE's possession concerning the reliability of the 4415 TCO, GE reasonably believed, at all relevant times before August 2, 1990, that a report was not required by section 15(b) of the CPSA, 15 U.S.C. 2064(b).

11. GE denies that, before August 2, 1990, it had information which reasonably supported the conclusion that its coffeemakers contained a defect which could create a substantial product hazard within the meaning of section 15(a) of the CPSA, 15 U.S.C. 2064(a), and further denies that it failed to meet its obligations to report information to the Commission under section 15(b) of the CPSA, 15 U.S.C. 2064(b), with respect to the coffeemakers. After filing its section 15(b) report, GE voluntarily recalled the coffeemakers.



# VI. Agreement of the Parties

12. GE and the staff agree that the Commission has jurisdiction in this matter for purposes of entry and enforcement of this Settlement Agreement Order.

13. Without admitting any fault, liability or statutory violation, GE agrees to pay the Commission \$400,000, in settlement of this civil penalty action, within 10 days after service of the Final Order of the Commission accepting this Settlement Agreement. This payment is made as a settlement to resolve the dispute arising from allegations by the staff that GE violated the reporting requirements of section 15(b) of the CPSA, 15 U.S.C. 2064(b), with regard to the subject coffeemakers manufactured and sold by GE.

14. Statements contained herein are in connection with the compromise of a disputed claim, and nothing in this Settlement Agreement and Order shall be deemed an admission. The Commission has made no determination that the coffeemakers contain a defect which could create a substantial product hazard or that a violation of section 15(b) of the CPSA, 15 U.S.C. 2064(b), has occurred.

15. Upon provisional acceptance of this Settlement Agreement and Order by the Commission, this Settlement Agreement and Order shall be placed on the public record and shall be published in the **Federal Register** in accordance with the procedure set forth in 16 CFR 1118.20(e). If the Commission does not receive any written request not to accept the Settlement Agreement within 15 days, the Settlement Agreement and Order will be deemed finally accepted on the 16th day after the date it is published in the **Federal Register**, in accordance with 16 CFR 1118.20(f).

16. Upon final acceptance of this Settlement Agreement by the Commission, GE knowingly, voluntarily and completely waives any rights it may have (1) to an administrative or judicial hearing with respect to the staff allegations cited herein, (2) to judicial review or other challenge or contest of the validity of the Commission's action with regard to the staff allegations cited herein, (3) to a determination by the Commission as to whether a violation of section 15(b) of the CPSA, 15 U.S.C. 2064(b), has occurred, and (4) to a statement of findings of fact and conclusions of law with regard to the staff claims cited herein.

17. Upon final acceptance of this Settlement Agreement by the Commission, the Commission will issue a press release announcing the Agreement, its subject and its terms.

18. This Settlement Agreement is binding upon the Commission and GE and, with the exception of GE's successors and assigns, does not bind or limit others not party to this Settlement Agreement.

19. The parties further agree that the incorporated Order be issued under the CPSA, 15 U.S.C. 2051 *et seq.*, and that a violation of the Order will subject GE to appropriate legal action.

20. No agreement, understanding, representation, or interpretation not contained in this Settlement Agreement and Order may be used to vary or to contradict its terms.

General Electric Company, Inc.

Dated: April 7, 1992.

Jay F. Lapin,

*Vice President-General Counsel and Public Affairs, General Electric Company, Inc.*

Dated: April 8, 1992.

Daniel Marcus,

*Wilmer, Cutler & Pickering, Attorney for General Electric Company, Inc.*

The Consumer Product Safety Commission.

David Schmeltzer,

*Associate Executive Director, Office of Compliance and Enforcement.*

Alan H. Schoem,

*Director, Division of Administrative Litigation, Office of Compliance and Enforcement.*

Dated: June 1, 1992.

William J. Moore, Jr.,

*Trial Attorney, Division of Administrative Litigation, Office of Compliance and Enforcement.*

## Order

Upon consideration of the Settlement Agreement of the parties, it is hereby *Ordered*, That General Electric Company, Inc. shall pay, within 10 days of final acceptance of this Settlement Agreement and service of this order, a sum in the amount of \$400,000 to the Consumer Product Safety Commission.

Provisionally accepted on the 1st day of June 1992.

By order of the Commission.

Sadye E. Dunn,

*Secretary, Consumer Product Safety Commission.*

[FR Doc. 92-14114 Filed 6-16-92; 8:45 am]

BILLING CODE 6355-01-M

## DEPARTMENT OF DEFENSE

### Department of the Air Force

#### Intent To Grant Exclusive Patent License

Pursuant to the provisions of part 404 of title 37, Code of Federal Regulations,

which implements Public Law 96-517, the Department of the Air Force announces its intention to grant Rockwell International Corporation, a corporation of the State of Delaware, having an office at 2201 Seal Beach Blvd, P.O. Box 4250, Seal Beach, CA 90740-8250, an exclusive, world-wide license under its interest in a joint invention of Paul R. Smith, a Government employee, and Jeffery A. Graves, a Rockwell International Corporation employee, titled "Improved Titanium Aluminide and Titanium Aluminide Composites Via an In-Situ Ductile/Fracture Resistant Layer," and identified by Air Force Invention No. 20162 and Rockwell Invention No. 91L091.

The license described above will be granted unless an objection thereto, together with a request for an opportunity to be heard, if desired, is received in writing by the addressee set forth below within sixty (60) days from the date of publication of this Notice. Copies of the disclosure may be obtained upon request from the same addressee.

All communications concerning this notice should be sent to Donald J. Singer, Chief, Patents Division, Air Force Legal Services Agency, 1900 Half Street, SW., room 5160, Washington, DC 20324-1000. Telephone inquiries may be directed to (202) 475-1386.

Patsy J. Conner,

*Air Force Federal Register Liaison Officer.*

[FR Doc. 92-14125 Filed 6-16-92; 8:45 am]

BILLING CODE 3910-01-M

## Department of the Navy

### CNO Executive Panel; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Stealth and Stealth Countermeasures Task Force will meet July 8, 1992, from 9:00 am to 5:00 pm, at the Center for Naval Analyses, 4401 Ford Avenue, Alexandria, Virginia. This session will be closed to the public.

The purpose of this meeting is to evaluate U.S. Navy requirements for stealth and stealth countermeasures systems. The entire agenda for the meeting will consist of discussions of key issues related to stealth, stealth countermeasures, and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense



and, are in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has been determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of Title 5, United States Code.

For further information concerning this meeting, contact: Judith A. Holden, Executive Secretary to the CNO Executive Panel, 4401 Ford Avenue, Room 601, Alexandria, Virginia, 22302-0268, Telephone Number (703) 756-1205.

Dated: June 8, 1992.

Wayne T. Baucino

Lieutenant, JAGC, U.S. Naval Reserve,  
Alternate Federal Register Liaison Officer.

[FR Doc. 92-14180 Filed 6-16-92; 8:45 am]

BILLING CODE 3610-AE-F

## DELAWARE RIVER BASIN COMMISSION

### Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, June 24, 1992. The hearing will be part of the Commission's regular business meeting which is open to the public and scheduled to begin at 1:30 p.m. in room 107/108 of the meeting facility at Penn State Great Valley, 30 East Swedesford Road, Malvern, Pennsylvania.

An informal conference among the Commissioners and staff will be open for public observation at 9:30 a.m. at the same location and will include a presentation by the National Park Service on studies concerning possible scenic rivers designation of White Clay Creek (DE-PA) and the Maurice River (NJ); discussion of Commission penalty policies and reports on the upper Delaware ice jam project, amendment of Compact section 15.1(b) to fund the F. E. Walter Reservoir project and Pennsylvania's compliance with Commission water conservation performance standards for plumbing fixtures and fittings.

The subjects of the hearing will be as follows:

*Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or Section 3.8 of the Compact:*

1. *Holdover Project: Mount Laurel Municipal Utilities Authority D-85-9 CP.* An application for approval of a ground water withdrawal project to supply up to 105 million gallons (mg)/30 days of water to the applicant's distribution system from Well Nos. 6

and 7, and to increase the existing withdrawal limit from all wells from 89.4 to 120 mg/30 days. The project is located in Mount Laurel Township, Burlington County, New Jersey. This hearing continues that of May 20, 1992.

2. *Holdover Project: Lehigh County Authority—Western Lehigh Service Area D-92-13 CP.* An application for approval of a ground water withdrawal project to supply up to 86.4 mg/30 days of water to the applicant's Central Division distribution system from new Well Nos. 17 and 18, and to increase the existing withdrawal limit of all wells from 188 mg/30 days to 201 mg/30 days. The project is located in Upper Macungie Township, Lehigh County, Pennsylvania. This hearing is deferred from that of May 20, 1992.

3. *Ralph Franceschini D-81-49 RENEWAL-2.* An application for the renewal of a ground water withdrawal project to supply up to 5.83 mg/30 days of water to the applicant's agricultural irrigation system from three existing wells. Commission approval on May 27, 1987 was limited to five years. The applicant requests that the total withdrawal from all wells remain limited to 5.83 mg/30 days. The project is located in the City of Vineland, Cumberland County, New Jersey.

4. *Mid-Atlantic Cannery Association D-86-83 RENEWAL.* An application for the renewal of a ground water withdrawal project to supply up to 5.7 mg/30 days of water to the applicant's bottling and canning facility from Well Nos. 1, 2 and 3. Commission approval on May 27, 1987 was limited to five years. The applicant requests that the total withdrawal from all wells be increased from 5.1 mg/30 days to 5.7 mg/30 days. The project is located in Hamburg Borough, Berks County, Pennsylvania.

5. *Bedminster Municipal Authority D-87-61 CP RENEWAL.* An application for the renewal of a ground water withdrawal project to supply up to 2.0 mg/30 days of water to the applicant's distribution system from Well Nos. 2 and 9. Commission approval on August 5, 1987 was limited to five years and will expire unless renewed. The applicant requests that the total withdrawal from all wells remain limited to 2.0 mg/30 days. The project is located in Bedminster Township, Bucks County in the Southeastern Pennsylvania Ground Water Protected Area.

6. *Delran Sewerage Authority D-87-74 CP.* An application to expand a 1.5 million gallons per day (mgd) sewage treatment plant to process a design average flow of 2.5 mgd through the year 2000. The Delran Wastewater Treatment Plant is surrounded by Rancocas Creek, Dredge Harbor, Delaware River, and the

Riverside Park Community in Delran Township, Burlington County, New Jersey. The proposed tertiary level treatment plant will serve Delran Township and a portion of Moorestown Township, also in Burlington County. The proposed contact stabilization plant will discharge to the Rancocas Creek/Delaware River confluence through a new outfall in Water Quality Zone 2.

7. *Burlington Township D-89-86 CP.* An application for approval of a ground water withdrawal project to supply up to 43.2 mg/30 days of water to the applicant's distribution system from new Well No. 5, and to reduce the existing withdrawal limit from all wells of 81.0 mg/30 days to 69.0 mg/30 days. The project is located in Burlington Township, Burlington County, New Jersey.

8. *Mid-Monroe Development Corporation D-90-77-CP.* An application for approval of a ground water withdrawal project to supply up to 3.7 mg/30 days of water to the applicant's Big Ridge Development from new Well No. 1, and to limit the withdrawal from all wells to 3.7 mg/30 days. The project is located in Middle Smithfield Township, Monroe County, Pennsylvania.

9. *Buckingham Water Company D-91-87 CP.* A ground water withdrawal project to serve as a standby source of supply for the applicant's distribution system. The application requests that the withdrawal from standby Well No. 3 be limited to 7.2 mg/30 days, and that the total withdrawal from all wells remain limited to 7.2 mg/30 days. The project is located in Buckingham Township, Bucks County, in the Southeastern Pennsylvania Ground Water Protected Area.

10. *Clifton Canning Company D-91-89 (G).* An application for approval of a ground water withdrawal project to supply up to 8.0 mg/30 days of water to the applicant's vegetable processing facility from existing Well Nos. 2 and 3, and to limit the withdrawal from all wells to 8.0 mg/30 days. The project is located north of the Town of Milton, Sussex County, Delaware.

11. *Clifton Canning Company D-91-89 (D).* An application for approval of a spray irrigation discharge project that serves the Clifton Canning Company's vegetable processing facility. The project provides primary treatment prior to distribution of 0.225 mgd (average monthly) of effluent to approximately 30 acres of spray irrigation field where biological treatment is accomplished via slow-rate land application. The project is located just off Route 38 and approximately 3000 feet north of Route 1



in Sussex County, Delaware. The spray irrigation field is located in the Primehook Creek watershed.

12. *Wallenpaupack Lake Estates Property Owners Association D-92-4*. An application for approval of the proposed expansion of its existing 0.10 mgd sewage treatment plant (STP) to treat an average flow of 0.40 mgd. The STP will continue to serve the residential/resort development of Wallenpaupack Lake Estates in Salem and Paupack Townships. The STP will continue to provide tertiary treatment and discharge to an unnamed tributary of Lake Wallenpaupack. The STP project is located in Paupack Township, Wayne County, Pennsylvania.

13. *Wheaton Industries D-92-14*. An application for approval of a ground water withdrawal project to supply to to 15.75 mg/30 days of water to the applicant's industrial facility from existing Well Nos. 15 and 16, and to decrease the existing withdrawal limit of 83 mg/30 days from all wells to 65.3 mg/30 days. The project is located in the City of Millville, Cumberland County, New Jersey.

14. *Smithfield Sewer Authority D-92-17 CP*. A sewage treatment plant (STP) upgrade and expansion project that will increase the applicant's STP average design capacity from 0.10 mgd to 0.40 mgd. The STP will continue to serve approximately 60 percent of Smithfield Township and discharge via the existing outfall structure to Little Sambo Creek. The STP will provide tertiary treatment facilities and will be located just off Valhalla Drive in Smithfield Township, Monroe County, Pennsylvania.

15. *Musconetcong Sewerage Authority D-92-26 CP*. An application for approval of the Musconetcong Sewerage Authority's upgrade and expansion project and rerating the existing 2.2 mgd sewage treatment plant (STP) to 2.275 mgd. The STP was previously upgraded and expanded from 1.15 mgd to 2.2 mgd and no new modifications are proposed for the rerating. The STP will continue to provide advanced secondary treatment including microscreening, post-aeration, and ultraviolet disinfection prior to discharge to the Musconetcong River. The STP serves the Boroughs of Stanhope and Netcong and part of Mount Olive and Roxbury Townships, and is located in Mount Olive Township, just north of the Route 206 interconnection with Interstate 80, in Morris County, New Jersey.

16. *Cinnaminson Sewerage Authority D-92-30 CP*. A sewage treatment plant (STP) upgrade project to improve the treatment process at the applicant's existing 2.0 mgd secondary activated sludge STP. The STP will continue to

operate at 2.0 mgd, serve the Township of Cinnaminson, and discharge to Water Quality Zone 2 of the Delaware River Estuary, approximately 300 feet upstream of the Pompton Creek confluence. The STP is located on Randolph Avenue, adjacent to the Delaware River in Cinnaminson Township, Burlington County, New Jersey.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact George C. Elias concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the hearing.

## Public Information Notice

### Water Quality Program

The Commission is preparing its water quality program for the fiscal year ending September 30, 1993. Notice of this action is given in accordance with the requirements of the Federal Clean Water Act, as amended. The proposed program will involve a variety of activities in the areas of planning, surveillance, compliance monitoring, regional coordination, water quality standards, wasteload allocations and public participation. While the proposed program is not subject to public hearing by the Commission, it will be available for examination and review by interested individuals at the Commission's offices upon request beginning July 1, 1992. The public review and comment period will end July 31, 1992. Please contact Seymour P. Gross for further information.

Dated: June 9, 1992.

Susan M. Weisman,  
Secretary.

[FR Doc. 92-14184 Filed 6-16-92; 8:45 am]

BILLING CODE 6360-01-M

## DEPARTMENT OF EDUCATION

### Transitional Bilingual Education Program; Special Alternative Instructional Program

**AGENCY:** Department of Education.

**ACTION:** Notice of proposed priority for Fiscal Year 1993.

**SUMMARY:** The Secretary proposes an absolute priority in fiscal year (FY) 1993 for a special competition under the Transitional Bilingual Education (TBE) Program and the Special Alternative Instructional (SAI) Program—two of the Basic Programs under Part A of the

Bilingual Education Act. The Secretary takes this action to focus Federal financial assistance on an identified national need. The priority is intended to improve the achievement of limited English proficient (LEP) students in mathematics and science.

**DATES:** Comments must be received on or before July 17, 1992.

**ADDRESSES:** All comments concerning this proposed priority should be addressed to Harry G. Logel, U.S. Department of Education, 400 Maryland Avenue, SW., room 5086, Switzer Building, Washington, DC 20202-6641.

**FOR FURTHER INFORMATION CONTACT:** Harry G. Logel. Telephone: (202) 732-5715. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington, DC 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m., Eastern time.

**SUPPLEMENTARY INFORMATION:** The TBE and SAI programs are authorized by section 7021 of the Bilingual Education Act (20 U.S.C. 3291). Grants are made to local educational agencies (LEAs) and institutions of higher education applying jointly with one or more LEAs to provide instructional services to LEP children. The TBE program provides structured English language instruction and, to the extent necessary to allow a LEP child to achieve competence in English, instruction in the child's native language. The SAI program provides structured English language instruction and special instructional services to help LEP children achieve competence in English. It allows, but does not require, instruction in the child's native language.

The Secretary proposes a special competition under the TBE and SAI programs in addition to the regular competitions under these programs for FY 1993 to provide LEAs additional assistance to improve the achievement of LEP students in mathematics and science. This special competition is part of the President's AMERICA 2000 strategy for helping the Nation move itself toward the National Education Goals, particularly Goal 3 and Goal 4. Goal 3 calls for all students to demonstrate competency in challenging subject matter, including English, mathematics, and science. Goal 4 calls for American students to be first in the world in science and mathematics achievement by the year 2000. The proposed priority would focus a portion of the TBE and SAI funds on these goals to help LEP students achieve competence in English, mathematics, and science.



The Secretary will announce the final priority in a notice in the **Federal Register**. The final priority will be determined by responses to this notice, available funds, and other considerations of the Department. Funding of particular projects depends on the availability of funds, the nature of the final priority, and the quality of the applications received. The publication of this proposed priority does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only this priority, subject to meeting applicable rulemaking requirements.

**Note:** This notice of proposed priority does not solicit applications. A notice inviting applications under this competition will be published in the **Federal Register** concurrent with or following publication of the notice of final priority.

#### Priority

Under 34 CFR 75.105 (c)(3), the Secretary proposes to give an absolute preference to applications that meet the following priority. The Secretary proposes to fund under this competition only applications that meet this absolute priority:

An instructional approach that emphasizes one or both of the following core curriculum areas in addition to English: mathematics or science.

#### Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

#### Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding this proposed priority.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in room 5611, Switzer Building, 330 "C" Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays. Applicable Federal Regulations: 34 CFR parts 500 and 501. Program Authority: 20 U.S.C. 3291.

(Catalog of Federal Domestic Assistance Numbers: 84.003A Transitional Bilingual Education Program; and 84.003E Special Alternative Instructional Program)

Dated: May 12, 1992.

Lamar Alexander,  
Secretary of Education.

[FR Doc. 92-14143 Filed 6-16-92; 8:45 am]

BILLING CODE 4000-01-M

#### Educational Personnel Training Program

**AGENCY:** Department of Education.

**ACTION:** Notice of proposed priority for Fiscal Year 1993.

**SUMMARY:** The Secretary proposes an absolute priority for a special competition under the Educational Personnel Training (EPT) Program of the Office of Bilingual Education and Minority Languages Affairs for fiscal year (FY) 1993. The Secretary takes this action to focus Federal financial assistance on an identified national need. The priority is intended to assist institutions of higher education (IHEs) to meet the need for additional or better trained bilingual education and English-as-a-second-language (ESL) teachers in mathematics and science.

**DATES:** Comments must be received on or before July 17, 1992.

**ADDRESSES:** All comments concerning this proposed priority should be addressed to Cynthia J. Ryan, U.S. Department of Education, 400 Maryland Avenue, SW., room 5086, Switzer Building, Washington, DC 20202-6642.

**FOR FURTHER INFORMATION CONTACT:** Cynthia J. Ryan. Telephone: (202) 732-1542. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington, DC 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m., Eastern time.

**SUPPLEMENTARY INFORMATION:** Awards under the EPT program are made to IHEs to prepare additional or better trained educational personnel for programs for limited English proficient (LEP) persons. Authority for the EPT program is in section 7041 of the Bilingual Education Act (20 U.S.C. 3321).

The Secretary proposes to hold a special competition under the EPT program for FY 1993 to assist IHEs in providing bilingual education and ESL teachers with certification-oriented training that emphasizes one or both of the following core curriculum areas: mathematics or science. This special competition is part of the President's AMERICA 2000 strategy for helping the Nation move itself toward the National

Education Goals, particularly Goals 3 and 4. Goal 3 calls for all students to demonstrate competency in challenging subject matter, including mathematics and science. Goal 4 calls for American students to be first in the world in science and mathematics achievement by the year 2000. The proposed priority would set aside a portion of the funds for the EPT program for projects that prepare teachers to help LEP students achieve competence in mathematics and science.

The Secretary will announce the final priority in a notice in the **Federal Register**. The final priority will be determined by responses to this notice, available funds, and other considerations of the Department. Funding of particular projects depends on the availability of funds, the nature of the final priority, and the quality of the applications received. The publication of this proposed priority does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only this priority, subject to meeting applicable rulemaking requirements.

**Note:** This notice of proposed priority does not solicit applications. A notice inviting applications under this competition will be published in the **Federal Register** concurrent with or following publication of the notice of final priority.

#### Priority

Under 34 CFR 75.105(c)(3), the Secretary proposes to give an absolute preference to applications that meet the following priority. The Secretary proposes to fund under this competition only applications that meet this absolute priority:

Certification-oriented programs providing bilingual education and English-as-a-second-language teachers with training that emphasizes one or both of the following core curriculum areas: mathematics or science.

#### Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.



**Invitation to Comment**

Interested persons are invited to submit comments and recommendations regarding this proposed priority.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in room 5622, Switzer Building, 330 "C" Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

**Applicable Program Regulations**

34 CFR Parts 500 and 561.

Program Authority: 20 U.S.C. 3321.

(Catalog of Federal Domestic Assistance Number 84.195R Educational Personnel Training Program)

Dated: May 12, 1992.

Lamar Alexander,

Secretary of Education.

[FR Doc. 92-14142 Filed 6-16-92; 8:45 am]

BILLING CODE 4000-01-M

**Office of Postsecondary Education;  
College Work-Study—Community  
Service Learning Program**

**AGENCY:** Department of Education.

**ACTION:** Notice of closing date for filing the campus-based reallocation form to receive supplemental allocations for the College Work-Study—Community Service Learning (CWS-CSL) Program.

**SUMMARY:** The Secretary gives notice to institutions of higher education of the deadline for an institution to apply for supplemental 1992-93 allocations under the CWS-CSL Program. The Secretary is authorized under section 442(e) of the Higher Education Act of 1965, as amended (HEA), to reallocate unexpended College Work-Study (CWS) funds that institutions received for expenditures during the 1991-92 award year (July 1, 1991 through June 30, 1992) as supplemental allocations for the 1992-93 award year (July 1, 1992 through June 30, 1993). Supplemental allocations will be issued this fall in accordance with reallocation procedures contained in 34 CFR 675.3 and 675.4.

Section 442(e)(2) of the HEA requires the Secretary to use an amount not in excess of 25 percent of those CWS funds available for reallocation each year to issue supplemental CWS-CSL allocations to eligible institutions for the purpose of initiating, improving, and expanding programs of community service learning. CWS-CSL supplemental allocations may be used only for administrative expenses related to developing work-study programs

involving the employment of CWS-eligible students in community service learning activities.

The CWS-CSL program is authorized by section 447 of Title IV of the HEA. (42 U.S.C. 2756a).

**CLOSING DATE:** An institution must apply for 1992-93 supplemental allocations for the CWS-CSL Program by submitting the completed data on the Campus-Based Reallocation Form (ED Form E40-4P; OMB No. 1840-0559).

To ensure consideration for the 1992-93 funds, the Campus-Based Reallocation Form must be mailed or hand-delivered to the address that follows by July 17, 1992.

**CAMPUS-BASED REALLOCATION FORMS**

**DELIVERED BY MAIL:** A Campus-Based Reallocation Form delivered by mail must be addressed to the U.S. Department of Education, Office of Student Financial Assistance, Division of Program Operations and Systems, Campus-Based Programs Branch, 400 Maryland Avenue SW., (room 4621, Regional Office Building 3), Washington, DC 20202-5452.

An institution must be able to show proof of mailing consisting of one of the following: (1) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service; (2) A legibly dated U.S. Postal Service postmark; (3) A dated shipping-label invoice or receipt from a commercial carrier; or (4) Any other proof of mailing deemed acceptable by the Secretary of Education.

For a Campus-Based Reallocation Form sent through the U.S. Postal Service, the Secretary does not accept as proof of mailing: (1) A private metered postmark, or (2) A mail receipt that is not dated by the U.S. Postal Service. An institution should note that the U.S. Postal Service does not uniformly provide a dated postmark on items delivered by mail. Before replying on this delivery method, an institution should check with its local post office on how to receive proof of mailing. An institution is encouraged to use certified, or at least first-class, mail when mailing the form.

**CAMPUS-BASED REALLOCATION FORMS**

**DELIVERED BY HAND:** A Campus-Based Reallocation Form delivered by hand must be taken to the U.S. Department of Education, Office of Student Financial Assistance, Division of Program Operations and Systems, Campus-Based Programs Branch, 7th and D Streets SW., room 4621, Regional Office Building 3, Washington, DC 20202-5452. Hand-delivered Campus-Based Reallocation Forms will be accepted between 8 a.m. and 4:30 p.m. (Washington, DC time) daily, except Saturdays, Sundays, and

Federal holidays. A hand-delivered Campus-Based Reallocation Form will not be accepted after 4:30 p.m. on July 17, 1992.

**CAMPUS-BASED REALLOCATION FORM**

**AND INFORMATION PACKAGE:** Campus-Based Reallocation Forms and a CWS-CSL program information package will be mailed to participating institutions by the Campus-Based Programs Branch in June. Each institution applying for 1992-93 supplemental allocations must submit the form in accordance with the instructions included in the package.

The CWS-CSL program information package is intended to help applicants apply for assistance under the CWS-CSL Program. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the program.

**APPLICABLE REGULATIONS:** Applicable regulations are the 34 CFR part 675 (College Work-Study), 34 CFR part 668 (Student Assistance General Provisions), 34 CFR part 82 (New Restriction on Lobbying), and 34 CFR part 85 (Administrative practices and procedures, Debarment, Grant Programs—Education, Grants administration; Suspension).

**FOR FURTHER INFORMATION CONTACT:**

For further information or to request a Campus-Based Reallocation Form, contact Ms. Gloria Easter, Chief, Financial Management Section, Division of Program Operations and Systems, Office of Student Financial Assistance, U.S. Department of Education, 400 Maryland Avenue SW., (room 4621, ROB-3), Washington, DC 20202-5452. Telephone (202) 708-7741. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1-800-377-8339. (In the Washington, DC 202 area, telephone 708-9300 between 8 a.m. and 7 p.m., Eastern time.)

Program Authority: 42 U.S.C. 2751-2756a. (Catalog of Federal Domestic Assistance No. 84.033, College Work-Study Program)

Dated: June 11, 1992.

Carolyn Reid-Wallace,

Assistant Secretary for Postsecondary Education.

[FR Doc. 92-14210 Filed 6-16-92; 8:45 am]

BILLING CODE 4000-01-M

**Office of Postsecondary Education**
**Perkins Loan and National Defense  
Student Loan Programs**

**AGENCY:** Department of Education.



**ACTION:** Notice of availability of published amendments to the 1991-92 National Defense and Perkins (National Direct) Student Loan Programs Directory of Designated Low-Income Schools.

**SUMMARY:** Institutions and borrowers participating in the National Defense and Perkins (National Direct) Student Loan Programs and other interested persons are advised that they may obtain information regarding the amendments to the 1991-92 National Defense and Perkins (National Direct) Student Loan Programs Directory of Designated Low-Income Schools (Directory). The amendments identify changes in the list of schools that qualify borrowers for teacher cancellation benefits under each of the loan programs.

**DATES:** The amendments to the Directory are currently available.

**ADDRESSES:** Information concerning specific schools listed in the amendments to the Directory may be obtained from Ronald W. Allen, Campus-Based Programs Branch, Division of Program Operations and Systems, Office of Student Financial Assistance, U.S. Department of Education, 400 Maryland Avenue, SW. (room 4651, ROB-3), Washington, DC 20202-5453. Telephone (202) 708-6730.

**FOR FURTHER INFORMATION CONTACT:** The amendments to the Directory are available at (1) each institution of higher education participating in the Perkins Loan Program, (2) each of the fifty-seven (57) State and Territory Departments of Education, (3) each of the major Perkins Loan billing services, and (4) the U.S. Department of Education.

**SUPPLEMENTARY INFORMATION:** The Secretary of Education published a notice in the *Federal Register* on November 18, 1991 (56 FR 58278) that the 1991-92 National Defense and Perkins (National Direct) Student Loan Programs Directory of Designated Low-Income Schools was available. The Secretary has revised the Directory due to the opening and closing of schools, school name changes, and the need for other corrections. These revisions are in the amendments to the Directory.

The procedures for selecting the schools that qualify borrowers for teacher cancellation benefits are described in the Perkins Loan Program regulations at 34 CFR 674.53 and 674.54. The Secretary has determined that for the 1991-92 academic year full-time teaching in the schools set forth in the Directory, as amended, qualifies a borrower for cancellation.

The Secretary is providing the amendments to the Directory to each

institution participating in the Perkins Loan Program. Borrowers and other interested parties may check with their lending institutions, the appropriate State or Territory Department of Education, regional offices of the Department of Education, or the Office of Student Financial Assistance of the Department of Education concerning the identity of qualifying schools for the 1991-92 academic year.

The Office of Student Financial Assistance will retain, on a permanent basis, copies of all published amendments and Directories.

(Catalog of Federal Domestic Assistance Number 84.037; National Defense/Direct and Perkins Student Loan Cancellations.)

Dated: June 11, 1992.  
Carolynn Reid-Wallace,

*Assistant Secretary for Postsecondary Education.*

[FR Doc. 92-14213 Filed 6-16-92; 8:45 am]  
BILLING CODE 4000-01-M

## DEPARTMENT OF ENERGY

### Intent To Prepare an Environmental Impact Statement and Conduct a Public Scoping Meeting for the Proposed Des Moines, Iowa, Pressurized Circulating Fluidized Bed (PCFB) Repowering Project

**AGENCY:** U.S. Department of Energy (DOE).

**ACTION:** Notice of Intent to prepare an Environmental Impact Statement (EIS) to assess the environmental effects of the construction and operation of the proposed Pressurized Circulating Fluidized Bed (PCFB) Repowering Project located at the Des Moines Energy Center (DMEC), Pleasant Hill, Polk County, Iowa, and to conduct a public scoping meeting.

**SUMMARY:** DOE announces its intent to prepare an EIS pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended, to evaluate the environmental impacts of the proposed construction and operation of a project proposed by the DMEC-1 Limited Partnership, which is composed of Dairyland Power Cooperative (DPC) as the limited partner and Iowa Power, Inc. (IPR), as the general partner. The proposed project involves the construction and operation of a 70-megawatt (minimum) electric (MWe) coal-fired PCFB to repower an existing steam turbine. The steam turbine is part of the Des Moines Energy Center (DMEC), located in Pleasant Hill, Iowa. The DMEC site is owned by IPR. DOE is proposing to provide cost-shared financial assistance for the project.

Preparation of the EIS will be in accordance with NEPA, the Council on Environmental Quality (CEQ) NEPA regulations (40 CFR parts 1500-1508), and the DOE regulations for compliance with NEPA (57 FR 15122, April 24, 1992). The purpose of this Notice is to invite public participation in the process that DOE will follow to comply with NEPA and to solicit public comments on the proposed scope and content of the EIS.

**INVITATION TO COMMENT AND DATES:** To ensure that the full range of issues related to this proposal are addressed, DOE invites comments on the proposed scope and content of the EIS from all interested parties. Written comments or suggestions to assist DOE in identifying significant environmental issues and the appropriate scope of the EIS will be considered in preparing the draft EIS and should be postmarked by July 23, 1992. Written comments postmarked after that date will be considered to the degree practicable.

DOE will also hold a public scoping meeting in which agencies, organizations, and the general public are invited to present oral comments or suggestions with regard to the range of actions, alternatives, and impacts to be considered in the EIS. The location, date, and time for the scoping meeting are provided in the section of this Notice entitled SCOPING MEETING. Written and oral comments will be given equal weight and will be considered in determining the scope of the draft EIS. When the draft EIS is completed, its availability will be announced in the *Federal Register*, and public comments will again be solicited. Comments on the draft EIS will be considered in preparing the final EIS. Requests for copies of the draft and/or final EIS, or questions concerning the project, should be sent to Ms. Wennona A. Brown at the address noted below.

**ADDRESSES:** Written comments or suggestions on the scope of the EIS, requests to speak at the scoping meeting, or questions concerning the project, should be directed to: Ms. Wennona A. Brown, Environmental Protection Specialist, U.S. Department of Energy, Morgantown Energy Technology Center (METC), P.O. Box 880, Morgantown, WV 26507-0880, Telephone: (304) 291-4294.

Envelopes should be labeled "Scoping for DMEC-1 EIS."

**FOR FURTHER INFORMATION CONTACT:** For general information on the EIS process, please contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Oversight (EH-25), U.S. Department of Energy, 1000 Independence Avenue,



SW., Washington, DC 20585, Tel. (202) 586-4600 or (800) 472-2756.

#### SUPPLEMENTARY INFORMATION:

##### Background and Need for the Proposed Action

Under terms of Public Law 100-446, Congress provided approximately \$575 million to DOE to support the construction and operation of demonstration facilities selected for cost-shared financial assistance as part of DOE's Clean Coal Technology (CCT) Demonstration Program. The CCT projects cover a broad spectrum of technologies having the following things in common: (1) All are intended to increase the use of coal in an environmentally acceptable manner and (2) all are ready to be proven at the demonstration level.

On May 1, 1989, DOE issued Program Opportunity Notice (PON) Number DE-PS01-89FE61825 for Round III of the CCT program, soliciting proposals to conduct cost-shared projects to demonstrate innovative, energy efficient, technologies that are capable of being commercialized in the 1990s. These technologies must be capable of (1) achieving significant reductions in the emissions of sulfur dioxide and/or the oxides of nitrogen from existing facilities to minimize environmental impacts such as transboundary and interstate pollution and/or (2) providing for future energy needs in an environmentally acceptable manner. The PON provided that candidate technologies must be capable of either retrofitting or repowering existing facilities. Such existing facilities currently may be designed to use any fuel (e.g., coal, oil, gas, etc.) and may be either stationary (e.g., power plants) or mobile (e.g., transportation applications). The demonstration projects, however, can be at new facilities provided the technology is capable of retrofitting or repowering applications. In response to the solicitation, 48 proposals were received. Thirteen projects were selected by DOE for negotiation in December 1989, including a proposal submitted by DPC.

During negotiations, DPC and IPR formed a partnership with the purpose of jointly demonstrating PCFB technology at a utility scale. The partnership's official name is DMEC-1 Limited Partnership, and this partnership is the official participant with whom DOE entered into a Cooperative Agreement. With the formation of the partnership, the location of the PCFB Repowering Project was changed from DPC's Alma Station

in Wisconsin to IRR's DMEC site in Iowa.

The DMEC-1 Limited Partnership has requested financial assistance from DOE for the design, construction, and operation of a 70-MWe (minimum) PCFB unit in a repowering application. The proposed project site is the Des Moines Energy Center, Pleasant Hill, Polk County, Iowa. The site is currently owned by IPR. Several coals, including high-sulfur bituminous coal and western sub-bituminous coal, are proposed for testing in the PCFB Repowering Project. Cost, environmental, and technical data from the project would be developed for use by the utility industry in evaluating this technology as a commercially viable power generation alternative. After the demonstration period of operation is concluded, IPR intends to continue project operation on a commercial basis. The Pyropower Corporation, the technology developer, intends to use technical data from this project to enlarge the scale of the technology in the form of a PCFB power station module suitable for commercial deployment.

##### Proposed Action

The proposed Federal action is for DOE to provide cost-shared financial assistance to the DMEC-1 Limited Partnership for the design, construction, and operation of a 70-MWe (minimum) coal-fired power generation facility to be located at the DMEC, which is owned by IPR. The proposed project would demonstrate a PCFB combustor by repowering an existing steam turbine with a single PCFB module operated in a combined-cycle mode.

The total cost of the proposed project is estimated at \$203 million, with DOE's share being approximately 45.9 percent, or \$93.2 million. The proposed project would last approximately 72 months; if the outcome of the NEPA review process is favorable, construction currently is projected to start about January 1994. After construction and shakedown, PCFB operation would be demonstrated on several coals, including high-sulfur bituminous coal and western sub-bituminous coal. Operation of the project during this two-year demonstration period, currently projected to begin in December 1995, would provide the information and experience needed for future applications and commercialization of the PCFB technology. Once DOE's involvement is completed, the DMEC-1 Limited Partnership intends to continue operating the project on a commercial basis.

The DMEC site is located in an industrial land use area within the city

limits of Pleasant Hill, Polk County, Iowa (southeast part of the Des Moines metropolitan area). The Des Moines River is situated south and west of the site and State Highway 46 extends north and south through the site. The entire project site occupies approximately 138 acres. IPR's Pleasant Hill Energy Center (combustion turbines) is located near the DMEC site on the east side of State Highway 46. There are 69-kilovolt and 161-kilovolt substations east of the DMEC, and an ash disposal area is situated northeast of the substations. There is a flood wall and levee between the Des Moines River and the DMEC facilities, including the substation and ash disposal area.

The DMEC was constructed in 1925 and commercially generated power for several decades. Beginning in 1980, the facility operated only in a very limited capacity until its retirement in 1985. The major components comprising the DMEC are the turbine/boiler building, transformer switch yard, substation, cooling towers, coal storage and handling facilities, an ash disposal area, railroad spurs, and a warehouse. While an existing steam turbine and some support equipment would be used for the proposed project, the facility would require extensive renovation to accommodate the new equipment.

The proposed DMEC-1 project, repowering of DMEC's No. 6 steam turbine, combines the new technology of PCFB with conventional steam generation power plant technology. The PCFB technology includes a single PCFB module, ceramic hot gas clean-up filters, and combined cycle technology. The PCFB system is comprised of the following major subsystems and key components:

- Coal feed system,
- Sorbent feed system,
- PCFB hot loop,
- Ceramic filter,
- Hot ash depressurization and cooling systems,
- Heat recovery superheater/economizer,
- Gas turbine generator,
- Gas turbine control and emergency shutdown valves, and existing balance-of-plant (steam turbine and generator, condenser, deaerator, feedwater heaters, and boiler feedwater pumps).

##### Alternatives

Under its authority pursuant to Public Law No. 100-446, DOE is presented with only two alternatives: (1) To cooperatively fund the proposed project; or (2) to decline to fund it (the "no action" alternative). In the latter case, the project would not contribute to the



objective of the CCT program, which is to make available to the U.S. energy marketplace a number of advanced, more efficient, economically feasible, and environmentally acceptable, coal technologies. The facility probably would not be constructed and operated; therefore, neither potential environmental impacts related to facility construction and operation, nor potential environmental benefits resulting from commercialization of the technology, would occur.

DOE acknowledges the obligation to examine reasonable alternatives which are beyond its immediate authority to implement, but which could also meet the objectives of the CCT Program. DOE is requesting public comment on reasonable alternatives to the DMEC PCFB Demonstration Project.

A Final Programmatic Environmental Impact Statement (PEIS) for the CCT Program was issued by DOE in November 1989 (DOE/EIS-0146). Two alternatives were evaluated in the PEIS: (1) The "no action" alternative, which assumed that the CCT Program was not continued and that conventional coal-fired technologies with flue gas desulfurization and oxides of nitrogen controls to meet New Source Performance Standards would continue to be used; and (2) the proposed action, which assumed that CCT projects were selected and funded, and that successfully demonstrated technologies would undergo widespread commercialization by the year 2010.

#### Identification of Environmental Issues

The following issues associated with the construction and operation of the proposed PCFB Repowering Project will be considered in detail by DOE during its evaluation. This list is neither intended to be all inclusive, nor is it a predetermination of potential impacts. Additions to or deletions from this list may occur as a result of the scoping process.

(1) **Air Quality:** The effects of air emissions within the region surrounding the site.

(2) **Water Resources and Water Quality:** The qualitative and quantitative effects on water resources and other water users in the region.

(3) **Flood Plains:** Nearly all of the project site is located in an area classified as Zone C by the Federal Emergency Management Agency, i.e., an area of minimal flooding. A levee extends along a portion of the river front that protects the project site. However, a narrow strip along the Des Moines River above the levee is classified as Zone A6, i.e., a special flood hazard area that is inundated by the 100-year flood.

(4) **Wetlands:** A small, manmade, wetland, vegetated by hydrophytic plant species, is located within the inactive ash disposal area; however, it is neither State nor Federally regulated. According to the U.S. Army Corps of Engineers, the wetland probably does not come under their jurisdiction because it lacks hydric soils. A determination by the Corps on the regulatory status of the onsite wetland is expected shortly.

(5) **Socioeconomics:** Potential bearing on communities that might be affected by the project.

(6) **Land Use:** The potential consequences to land, utilities, transportation routes, and traffic patterns resulting from the project.

(7) **Solid Waste:** The environmental effects of generation, treatment, transport, storage, and disposal of solid wastes.

(8) **Polychlorinated Biphenyls (PCBs):** Previous activities at the proposed site, not related to the DMEC-1 project, have resulted in some areas requiring PCB remediation. Iowa Power is assessing the magnitude of the problem, and is developing the appropriate remediation plan to remove the PCBs from the site.

(9) **Biological Resources:** Potential disturbance or destruction of species, including the potential effects on threatened or endangered species of flora and fauna.

(10) **Cultural Resources:** Potential effects on historical, archaeological, scientific, or culturally important sites.

(11) **Cumulative Impacts:** NEPA requires that the EIS evaluate the impact on the environment that results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions, regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time. Cumulative impacts will be evaluated within the EIS for all important issues in the vicinity of the site.

Issues that are significant will be addressed in detail; issues that are not considered significant will be discussed in less detail, or as appropriate to clarify and distinguish impacts among alternatives.

#### NEPA and the Scoping Process

DOE will comply with the NEPA process as outlined in the CEQ's Regulations for Implementing the Procedural Provisions of NEPA (40 CFR Parts 1500-1508) and DOE's regulations for compliance with NEPA (57 FR 15122, April 24, 1992).

Scoping, which is an integral part of the NEPA process, is a procedure that solicits public input to the EIS process to ensure that: (1) Issues are identified early and properly studied; (2) issues of little significance do not consume time and effort; (3) the draft EIS is thorough and balanced; and (4) delays occasioned by an inadequate draft EIS are avoided (40 CFR 1501.7). DOE's NEPA regulations require that the scoping process commence as soon as practicable after a decision has been reached to prepare an EIS in order to provide an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action. The scope of issues to be addressed in a Draft EIS will be determined, in part, from written comments submitted by mail, and comments presented orally or in writing at a public scoping meeting (see below). The results of the scoping process will be incorporated into a document called an Implementation Plan (IP), which provides guidance for the preparation of an EIS.

The above preliminary identification of reasonable alternatives and environmental issues is not meant to be exhaustive or final. DOE identified the reasonable alternatives and potential environmental issues shown above based on its experience with similar subjects that have been raised for other comparable DOE projects. DOE considers the scoping process to be open and dynamic in the sense that alternatives other than those given above may warrant examination, and new matters may be identified for potential evaluation. The scoping process will involve all interested agencies (Federal, State, County, and local), groups, and individual members of the public. Interested parties are invited to participate in the scoping process by providing comments on both the alternatives and the issues to be addressed in the EIS. DOE will consider all comments in preparing the IP, which will specify the reasonable alternatives, identify the significant environmental issues to be analyzed in depth, and eliminate from detailed study those alternatives and environmental issues that are not significant or pertinent. When complete, the IP will be available for public review at the locations identified below.

#### Scoping Meeting

A public scoping meeting will be held at the location, on the date, and at the time indicated below. This scoping meeting will be informal, with a



presiding officer designated by DOE who will establish procedures governing the conduct of the meeting. The meeting will not be conducted as an evidentiary hearing, and those who choose to make statements may not be cross-examined by other speakers. To ensure that everyone who wishes to speak has a chance to do so, five minutes will be allotted to each speaker. Depending on the number of persons requesting to be heard, DOE may allow longer times for representatives of organizations. Persons wishing to speak on behalf of an organization should identify that organization in their request to speak. Persons who have not submitted a request to speak in advance may register to speak at the scoping meeting. They will be called on to present their comments as time permits. Oral and written comments will be given equal weight by DOE. Written comments may also be submitted after the scoping meeting, but should be postmarked by July 23, 1992, and forwarded to Ms. Wennona A. Brown, Environmental Protection Specialist, Morgantown Energy Technology Center, as provided in the ADDRESS section of this Notice. Written comments postmarked after that date will be considered to the degree practicable.

The meeting is scheduled as follows:

*Date:* Wednesday, July 8, 1992.

*Time:* 7 p.m. (Registration opens at 6 p.m.)

*Place:* Youth Center at Doanes Park, 5050 Doanes Park Road, Pleasant Hill, Iowa 50317.

A complete transcript of the public scoping meeting will be retained by DOE and made available for inspection during business hours, Monday through Friday, at the Department of Energy Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, and at the Department of Energy, Morgantown Energy Technology Center, 3610 Collins Ferry Road, Morgantown, West Virginia 26505. Additional copies of the public scoping meeting transcript will also be made available during normal business hours at the following location: Pleasant Hill Public Library, (Attn: Mr. John Lerdal), 4830 Maple Drive, Des Moines, Iowa 50317.

In addition, copies of the public scoping meeting transcript will be made available for purchase. Those interested parties who do not wish to submit comments or suggestions at this time, but who would like to receive a copy of the Draft EIS when it is prepared, should notify Ms. Wennona A. Brown, Environmental Protection Specialist,

Morgantown Energy Technology Center, at the address given in the ADDRESS section of this Notice.

Signed in Washington, DC, this 12th day of June 1992, for the United States Department of Energy.

Paul L. Ziemer,

Assistant Secretary, Environment, Safety and Health.

[FR Doc. 92-14231 Filed 6-16-92; 8:45 am]

BILLING CODE 6450-01-M

### Noncompetitive Financial Assistance Award

**AGENCY:** U.S. Department of Energy, Bartlesville Project Office.

**ACTION:** Notice of noncompetitive financial assistance award.

**SUMMARY:** The Department of Energy (DOE), Bartlesville Project Office (BPO) announces that pursuant to 10 CFR 600.7(b)(2)(i)(A) and (D), it intends to make a Non-Competitive Financial Assistance (Grant) Award through the Pittsburgh Energy Technology Center (PETC) to Stanford University for the continuation of their effort entitled "Scale-up of Miscible Flood Processes for Heterogeneous Reservoirs".

#### SUPPLEMENTARY DATA:

*Grant No.:* DE-FG22-92BC14852.

*Title:* Support of "Scale-up of Miscible Flood Processes for Heterogeneous Reservoirs."

*Awardee:* Stanford University.

*Term:* 36 months.

*Cost:* Total estimated cost is \$1,049,961.

*Scope:* Based upon the authority of 10 CFR 600.7(b)(2)(i) criteria (A) and (D), the objective of this Grant is for Stanford University to continue developing design techniques for miscible floods for heterogeneous fluvial deltaic and carbonate reservoirs. The proposed work is considered to be relevant to the DOE mission in that the program will provide a mechanism for communication and interaction research between DOE and Stanford University in the extension of the applicability of miscible flood processes to a much wider range of reservoirs than are currently considered to be suitable candidates for miscible EOR. It will make possible rational design of recovery processes that make use of better reservoir descriptions in the design process. The proposed research is the logical complement to the DOE program to investigate fluvial deltaic and carbonate reservoirs.

*For Further Information Write To:* U.S. Department of Energy, Pittsburgh Energy Technology Center, Attn: Ms.

Cynthia Mitchell, Contract Specialist, Acquisition and Assistance Division, P.O. Box 10940, MS 921-118, Pittsburgh, PA 15236-0940.

Dated: June 4, 1992.

Dale A. Siciliano,

Chief, Contracts Group, Acquisition and Assistance Div.

[FR Doc. 92-14232 Filed 6-16-92; 8:45 am]

BILLING CODE 6450-01-M

### Financial Assistance: Weirton Steel Corporation

**AGENCY:** U.S. Department of Energy.

**ACTION:** This notice amends previous notice published on May 5, 1992, concerning an intent to negotiate a cooperative agreement entitled "Integrated Manufacturing Information System (IMID)<sup>tm</sup>".

**SUMMARY:** The U.S. Department of Energy announces that pursuant to 10 CFR 600.14(f) it plans to award a cooperative agreement to Weirton Steel Corporation. This new agreement is the result of an unsolicited proposal (No. P9507073) as modified August 30, 1991. The objective of the project will be for development of a material marking and tracking system and a process planning and scheduling system. This award would be for a one year period at a total estimated cost of \$5,666,000. DOE's share of the cost will total approximately \$2,833,000. This action is authorized by Public Law 93-577, Federal Nonnuclear Energy Research and Development Act of 1974. Development of an integrated manufacturing information system for the steel industry is further provided for in Public Law 101-512. The acceptability of this unsolicited proposal is justified under 10 CFR 600.14(e). The project, as proposed, represents a unique approach to addressing a widely perceived need for obtaining and integrating plant-wide manufacturing information and real-time materials management data. There are no recent, current, or planned solicitations under which this unsolicited proposal would be eligible for consideration.

**FOR FURTHER INFORMATION CONTACT:** U.S. Department of Energy, Idaho Field Office, Attn: Linda A. Hallum, Contracts Management Division, 785 DOE Place, MS 1221, Idaho Falls, ID 83401-1562, (208) 526-5545.

**PROCUREMENT REQUEST NUMBER:** 07-92ID13162.000.



Dated: June 8, 1992.

R. Jeffrey Hoyles,

Acting Director, Contracts Management Division.

[FR Doc. 92-14233 Filed 6-16-92; 8:45 am]

BILLING CODE 6450-01-M

## Office of Fossil Energy

[FE Docket No. 92-59-NG]

### IGI Resources, Inc.; Application for Blanket Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of Application.

**SUMMARY:** The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application filed on May 1, 1992, by IGI Resources, Inc. (IGI), requesting blanket authorization to import up to 200 Bcf of natural gas from Canada over a two-year term, beginning on August 1, 1992, the day after IGI's current two-year blanket import authorization expires. See DOE/FE Opinion and Order No. 415, 1 FE ¶ 70,341 (August 1, 1990). IGI intends to continue using existing facilities, and will submit quarterly reports of its transactions.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention, and written comments are invited.

**DATES:** Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time, July 17, 1992.

**ADDRESSES:** Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, FE-50, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478.

#### FOR FURTHER INFORMATION CONTACT:

Laraine A. Moore, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-070, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478.

Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E-042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6667.

**SUPPLEMENTARY INFORMATION:** IGI, an Idaho corporation with its principal place of business in Boise, Idaho, is a wholly-owned subsidiary of Intermountain Industries, Inc. IGI, a marketer of natural gas, requests authority to continue to import gas from

Canada, either for its own account or as agent for others, for sale to industrial end-users and local distribution companies. IGI would continue to file reports with FE within 30 days after the end of each calendar quarter giving the details of individual transactions. IGI's prior quarterly reports filed with FE indicate that approximately 27.4 Bcf of natural gas were imported under Order 415 through March 31, 1992.

The decision on IGI's request for import authority will be made consistent with DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the market served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties should comment on the issue of competitiveness as set forth in those guidelines. IGI asserts in its application that the proposed arrangement is competitive. Parties opposing IGI's request for import authorization bear the burden of overcoming this assertion.

#### NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

#### Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by

parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts. If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of IGI's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on June 12, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-14234 Filed 6-16-92; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 92-62-NG]

### SDS Petroleum Products, Inc.; Application for Blanket Authorization To Export Natural Gas to Mexico

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of Application.

**SUMMARY:** The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on May 19, 1992, as revised on June 3, 1992, of an application filed by SDS Petroleum Products, Inc. (SDS) to export 135,000 MMBtu per day of natural gas from the United States to Mexico for a two-year period beginning on the date of first



delivery. The proposed exports would take place at any point on the international border where existing pipeline facilities are located. SDS would file quarterly reports detailing any transactions.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-1111 and 0204-127. Protests, motions to intervene, notices of intervention, and written comments are invited.

**DATES:** Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time, July 17, 1992.

**ADDRESSES:** Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, FE-50, 1000 Independence Avenue, SW., Washington, DC 20585.

#### FOR FURTHER INFORMATION:

Peter Lagiovane, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-8116.

Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E-042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-8667.

**SUPPLEMENTARY INFORMATION:** SDS, a Colorado corporation with its principal place of business in Denver, Colorado, is a marketer of natural gas. It purchases gas from several major domestic producers and resells it to a variety of end-users and local distribution centers. The exported gas would come from production areas in the United States with surplus supplies of natural gas or would consist of supplies which are incremental to the needs of current purchasers. No contracts for the sale of the proposed exports have been executed, however, the specific details of each export transaction would be filed by SDS in conformity with DOE's quarterly reporting requirements. SDS anticipates all sales would result from arms-length negotiations and the prices would be determined by market conditions.

This export application will be reviewed under section 3 of the NGA and the authority contained in DOE Delegation Order Nos. 0204-111 and 0204-127. In deciding whether the proposed export of natural gas is in the public interest, domestic need for the gas will be considered, and any other issue determined to be appropriate, including whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas

marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment on these matters as they relate to the requested export authority. The applicant asserts that there is no current need for the domestic gas that would be exported under the proposed arrangement. Parties opposing this arrangement bear the burden of overcoming this assertion.

All parties should be aware that if DOE approves this requested blanket export authorization, it may designate a total authorized volume for the two-year term, or approximately 98.5 Bcf of natural gas, rather than the 135,000 MMBtu per day requested by SDS, in order to maximize the applicants flexibility of operation.

#### NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

#### Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A

party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of SDS's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on June 12, 1992.

**Charles F. Vacek,**

*Deputy Assistant Secretary For Fuels Programs, Office of Fossil Energy.*

[FR Doc. 92-14235 Filed 6-16-92; 8:45 am]

BILLING CODE 6450-01-M

#### Federal Energy Regulatory Commission

[Project Nos. 349-024, et al.]

#### Hydroelectric Applications [Alabama Power Co., et al.]; Applications

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

- Type of Application:* Application for Non-Project Use of Project Lands.
- Project No:* 349-024.
- Date Filed:* January 31, 1992.
- Applicant:* Alabama Power Company.
- Name of Project:* Martin Dam Project.
- Location:* Elmore County, Alabama.



g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* John E. Dorsett, Vice President, Power Generation Services, Alabama Power Company, 600 North 18th Street, P.O. Box 2641, Birmingham, AL 35291-0364, (205) 250-1380.

i. *FERC Contact:* Dan Hayes, (202) 219-2660.

j. *Comment Date:* July 13, 1992.

k. *Description of Project:* Alabama Power Company, licensee for the Martin Dam Project, filed an application for non-project use of project lands to permit Mr. Roy Granger to excavate two sloughs. One of the sloughs was excavated during 1991 and approval is requested after the fact. Excavation of the sloughs would facilitate residential development of the shoreline. The application also contains revised boundary exhibits showing the present location of the project boundary.

1. *This notice also consists of the following standard paragraphs: B, C, and D2.*

a. *Type of Application:* Subsequent License.

b. *Project No.:* 2341-004.

c. *Date Filed:* November 20, 1991.

d. *Applicant:* Georgia Power Company.

e. *Name of Project:* Langdale.

f. *Location:* On the Chattahoochee River in Harris County, Georgia, and Chambers County, Alabama.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mayor H. Thompson, Jr., Manager, FERC Licensing and Compliance, P.O. Box 4545, Atlanta, GA 30302, (404) 526-7140.

i. *FERC Contact:* James Hunter at (202) 219-2839.

j. *Deadline Date:* July 16, 1992.

k. *Status of Environmental Analysis:* This application is not ready for environmental analysis at this time—see attached paragraph E1.

l. *Description of Project:* The project consists of: (1) A 15-foot-high, 1,892-foot-long rubble masonry dam with a 1,362-foot long overflow spillway at elevation 550.25 feet and a gated intake section containing two active and four retired water passageways connecting to the powerhouse, each 25 feet wide, 15 feet high, and 30 feet long; (2) a reservoir with a surface area of approximately 270 acres at the spillway elevation; (3) an integral, 35-foot-wide, 245-foot-long, 30-foot-high, concrete and brick powerhouse on the right bank containing two identical generating units with a total installed capacity of 1,040 kW; (4) a 250-foot-wide, 1,500-foot-long tailrace channel; and (5) a substation connecting directly to the applicant's

distribution system. The average annual generation is 5.12 GWh. The applicant is not proposing any changes to the existing project works. Subsequent licenses are defined in 18 CFR 16.2(e).

m. *Purpose of Project:* Power generated at the project is delivered to customers within the applicant's service area.

n. *This notice also consists of the following standard paragraphs: B1 and E1.*

o. *Available Locations of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208-1371. A copy is also available for inspection and reproduction at Georgia Power Company's office at 333 Piedmont Avenue, Atlanta, Georgia, (404) 526-6526.

3a. *Type of Application:* Subsequent License.

b. *Project No.:* 2350-005.

c. *Date Filed:* November 20, 1991.

d. *Applicant:* Georgia Power Company.

e. *Name of Project:* Riverview.

f. *Location:* On the Chattahoochee River in Harris County, Georgia, and Chambers County, Alabama.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Major H. Thompson, Jr., Manager, FERC Licensing and Compliance, P.O. Box 4545, Atlanta, GA 30302, (404) 526-7140.

i. *FERC Contact:* James Hunter at (202) 219-2839.

j. *Deadline Date:* July 16, 1992.

k. *Status of Environmental Analysis:* This application is not ready for environmental analysis at this time—see attached paragraph E1.

l. *Description of Project:* The project consists of: (1) A 15-foot-high, 994-foot-long stone masonry diversion dam with an overflow spillway at elevation 532.3 feet; (2) a back-channel headrace about 5,000 feet long; (3) a 200-foot-long lower stone masonry dam with an overflow crest at elevation 530.5 feet, raised to 532.5 feet with flashboards; (4) a 58-foot-long, 61-foot-wide, 25-foot-high, concrete and brick powerhouse at the western end of the lower dam with a gated intake section containing two 22-foot-wide, 18-foot-high, 30-foot-long water passageways connecting to the two generating units rated at 240 kW each; (5) a 100-foot-wide, 2,000-foot-long tailrace channel; and (6) a substation connecting directly to the applicant's distribution system. The average annual generation is 2.99 GWh. The applicant is

not proposing any changes to the existing project works. Subsequent licenses are defined in 18 CFR 16.2(e).

m. *Purpose of Project:* Power generated at the project is delivered to customers within the applicant's service area.

n. *This notice also consists of the following standard paragraphs: B1 and E1.*

o. *Available Locations of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208-1371. A copy is also available for inspection and reproduction at Georgia Power Company's office at 333 Piedmont Avenue, Atlanta, Georgia, (404) 526-6526.

4a. *Type of Application:* New Minor License.

b. *Project No.:* 2361-001.

c. *Date Filed:* December 13, 1991.

d. *Applicant:* Minnesota Power & Light Company.

e. *Name of Project:* Prairie River Hydroelectric Project.

f. *Location:* On the Prairie River near the city of Grand Rapids in Itasca County, Minnesota.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Stephen A. Kopish, Hydro Operations Manager, Minnesota Power & Light Company, 30 West Superior Street, Duluth, Minnesota 55802, (218) 722-2841.

i. *FERC Contact:* Mr. Michael Strzelecki, (202) 219-2827.

j. *Comment Date:* July 16, 1992.

k. *Status of Environmental Analysis:* This application is not ready for environmental analysis at this time—see attached paragraph E1.

l. *Description of Project:* The run-of-river project consists of: (1) A 17-foot-high dam; (2) a 2,000-acre impoundment; (3) a powerhouse containing two generating units with a total installed capacity of 1,084 kW; (4) a 2.3/23-kV transmission bank; and (5) appurtenant facilities.

The Applicant is not proposing any changes to the existing project works as licensed. The Applicant estimates the average annual generation from this project to be 3,033 MWh.

m. *Purpose of Project:* All project energy generated would be put into the applicant's electrical grid and distributed to its customers.

n. *This notice also consists of the following standard paragraphs: B1 and E1.*



*o. Available Locations of Application:*

A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208-1371. A copy is also available for inspection and reproduction at the Minnesota Power & Light Company, located at 30 West Superior Street, Duluth, Minnesota 55802, or by calling Mr. Stephen A. Kopish at (218) 722-2641.

*5a. Type of Application:* Subsequent License.*b. Project No.:* 2587-002.*c. Date Filed:* December 18, 1991.*d. Applicant:* Northern States Power Company.*e. Name of Project:* Superior Falls Hydro Project.*f. Location:* On the Montreal River in Iron County, Wisconsin and Gogebic County, Michigan.*g. Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).*h. Applicant Contact:* Mr. Anthony G. Schuster, Vice President, Power Supply, Northern States Power Company, 100 North Barstow Street, P.O. Box 8, Eau Claire, WI, (715) 839-2621.*i. FERC Contact:* Ed Lee (202) 219-2809.*j. Comment Date:* July 13, 1992.*k. Status of Environment Analysis:*

This application is not ready for environmental analysis at this time—see attached standard paragraph E1.

*l. Description of Project:* The project as licensed consists of the following: (1) Two existing concrete gravity non-overflow sections, a total length of approximately 105 feet long, with an intake structure for a conduit including a metal trashrack and a mechanically operated timber headgate; (2) an existing concrete gravity gated spillway section, about 90 feet long, containing (a) two steel Tainter gates, approximately 16 feet long by 18 feet high, and (b) three timber Tainter gates, approximately 12 feet long by 9 feet high; (3) an existing concrete gravity overflow weir section, about 45 feet long, containing three concrete bulkheaded overflow weir bays; (4) an existing reservoir with a surface area of 16.9 acres and a total storage volume of 80.9 acre-feet at the normal maximum surface elevation of 740.0 feet USGS; (5) an existing 84 inch diameter reinforced concrete pipe conduit, approximately 1,697 feet long, conveying water from the intake structure to the surge tank; (6) an existing 28 foot diameter surge tank with a concrete base and lower section (13 feet high) and a steel upper section extending 28 feet above the concrete; (7)

two existing 54 inch diameter steel penstocks, each 190 feet long; (8) an existing reinforced concrete powerhouse, approximately 32 feet by 62 feet, containing (a) two horizontal Francis turbines with a combined plant hydraulic capacity of 220 cfs, manufactured by Allis-Chalmers and rated at 1,250 hp each, and (b) two General Electric generators, rated at 660 kW each, providing a combined plant rating of 1,320 kW; (9) an existing 2.4 kV transmission line, 200 feet long; and (10) existing appurtenant facilities. No changes are being proposed for this subsequent license. The applicant estimates the average annual generation for this project would be 12,018 MWH. The dam and existing project facilities are owned by the applicant.

*m. Purpose of Project:* Project power would be utilized by the applicant for sale to its customers.

*n. This notice also consists of the following standard paragraphs:* B1 and E1.

*o. Available Location of Application:*

A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208-1371. A copy is also available for inspection and reproduction at Northern States Power Company 100 North Barstow Street, P.O. Box 8, Eau Claire, WI or by calling (715) 839-2621.

*6a. Type of Application:* Surrender of license.*b. Project No.:* 9193-011.*c. Date Filed:* April 21, 1992.*d. Applicant:* Riverdale Hydro Associates.*e. Name of Project:* Davis-Weber Canal.*f. Location:* On the Davis-Weber Canal, in Weber County, Utah.*g. Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).*h. Applicant Contact:* Louis Rosenman, 1725 Desales Street, NW., Suite 800, Washington, DC 20036, (202) 659-6568.*i. FERC Contact:* Michael Spencer at (202) 219-2846.*j. Comment Date:* July 9, 1992.*k. Description of Proposed Action:*

The proposed project would have consisted of a diversion dam, a canal, penstock, and a powerhouse. The Licensee seeks to surrender its license because it will be unable to meet the deadline for start of construction.

The Licensee states that no construction has been done.

*l. This notice also consists of the following standard paragraphs:* B and C.

*7a. Type of Application:* Surrender of License.*b. Project No.:* 9273-023.*c. Date Filed:* April 27, 1992.*d. Applicant:* Upstate Hydro Associates.*e. Name of Project:* Seneca Mills.*f. Location:* On the Keuka Lake Outlet in Yates County, New York.*g. Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).*h. Applicant Contact:* J. Ben Guthrie, 6235 Bridge Street, Valois, NY 14888, (607) 548-8241.*i. FERC Contact:* Charles T. Raabe (tag), (202) 219-2811.*j. Comment Date:* July 10, 1992.

*k. Description of Project:* The proposed project would have consisted of: (1) An 18-foot-high, 68-foot-long reinforced concrete spillway topped by 2-foot-high flashboards, with a crest elevation of 598 feet mean sea level measured at the top of flashboards; (2) an impoundment with a surface area of 4 acres; (3) an intake structure; (4) a 240-foot-long steel penstock, 78 inches in diameter; (5) a single turbine generator unit with a total installed capacity of 830 kW; (6) a reinforced concrete powerhouse; (7) the 0.48-kV generator leads; (8) the 0.48/34.5-kV, 900-kVA transformer; (9) a 25-foot-long, 34.5-kV transmission line; and (10) other appurtenances.

Licensee states that the electric rates available to the licensee in the existing Power Purchase Agreement will not support the construction and operation of the site. Therefore, licensee has requested that its license be terminated. The license was issued March 31, 1987, and would have expired February 28, 2027. Licensee has commissioned a contractor to restore the property to its original grassy condition.

*l. This notice also consists of the following standard paragraphs:* B, C, and D2.

*8a. Type of Application:* Preliminary Permit.*b. Project No.:* 11276-000.*c. Date Filed:* April 6, 1992.*d. Applicant:* Lewis Basin Limited Partnership.*e. Name of Project:* Fly Creek Hydroelectric Project.*f. Location:* On Fly Creek near the town of Chelatchie in Clark County, Washington. Section 31 in T6N, R4E; sections 6, 7, 8, 9, 15, and 16 in T5N, R4E.*g. Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).*h. Applicant Contact:* Mr. Michael S. Wright, Permit/Engineering, Inc., 1300-114th Ave., SE., Suite 220, Bellevue, Washington 98004, (206) 451-7371.



i. *FERC Contact:* Mr. Michael Strzelecki, (202) 219-2827.

j. *Comment Date:* July 9, 1992.

k. *Description of Project:* The proposed project would consist of: (1) A 12-foot-high diversion structure on Fly Creek; (2) a 17,000-foot-long, 4.5-foot-diameter penstock; (3) a powerhouse with a total installed capacity of 7.6 MW; (4) a tailrace returning the water to Fly Creek; (5) a 1.6-mile-long transmission line interconnecting with an existing Pacific Power & Light transmission line; (6) a 2,000-foot-long access road; and (7) appurtenant facilities.

No new roads will be needed to conduct the studies. The approximate cost of the studies would be \$350,000.

l. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

9a. *Type of Application:* Minor license.

b. *Project No.:* 11288-000.

c. *Date filed:* May 11, 1992.

d. *Applicant:* Fair Haven Hydroelectric Company.

e. *Name of Project:* Fair Haven.

f. *Location:* On the Castleton River, in the Town of Fair Haven, Rutland County, Vermont.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Geoff Shadroui, P.O. Box 1250, Barre, VT 05641, (802) 476-4062.

i. *FERC Contact:* Charles T. Raabe (dt) (202) 219-2811.

j. *Deadline Date:* July 10, 1992.

k. *Description of Project:* The proposed project would consist of: (1) An existing masonry dam 8 feet high and 75 feet long; (2) a new reinforced concrete intake structure; (3) a small reservoir with 1 acre area and 4 acre-feet of storage capacity at a surface elevation of 353 m.s.l.; (4) a new steel penstock 8 feet in diameter and 80 feet long; (5) a new concrete powerhouse housing a generating unit rated 220 kW; (6) a short tailrace channel; (7) a transmission line 150 feet long; and (8) appurtenant facilities. The existing facilities are owned by the Town of Fair Haven. Applicant estimates that the project's annual generation would be 750,000 kWh. Project power would be sold to Central Vermont Public Service Company.

l. Pursuant to 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merits, the resource agency, Indian Tribe, or person must file a request for a

study with the Commission not later than 60 days after the application is filed and serve a copy of the request on the applicant.

10a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11221-000.

c. *Dated Filed:* January 8, 1992; amended April 3, 1992, and May 18, 1992.

d. *Applicant:* Peak Power Corporation.

e. *Name of Project:* Tropicana Modular Hydroelectric Pumped Storage Project.

f. *Location:* Predominantly on lands administered by the Bureau of Land Management near Las Vegas in Clark County, Nevada. T21S, R59E in sections 32, 33, and 34; T22S, R59E in sections 3, 4, 10, 11, 14, 15, 22, 25, 26, and 27; T22S, R60E in sections 25, 26, 27, 28, 29, and 30.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Rick S. Koebbe, Peak Power Corporation, 10 Lombard Street, suite 410, San Francisco, CA 94111, (415) 362-0887.

i. *FERC Contact:* Mr. Michael Strzelecki, (202) 219-2827.

j. *Comment Date:* July 16, 1992. This notice supplements the notice issued February 5, 1992, for the Peak Power Corporation's Project No. 11221.

k. *Description of Project:* The proposed pumped storage project would consist of: (1) A 140-foot-high dam and 47-acre upper reservoir at the Blue Diamond Mine; (2) a 10-foot-diameter, 12,500-foot-long penstock connecting the upper reservoir with a lower reservoir; (3) a 60-foot-high dam and 54-acre lower reservoir in a naturally formed desert valley to the east of the upper reservoir; (4) a powerhouse containing two 50-MW generating units; (5) a 14-mile-long transmission line interconnecting with an existing Nevada Power Company transmission line; and (6) appurtenant facilities.

No new access roads will be needed to conduct the studies. The approximate cost of the studies would be \$200,000.

l. *This notice also consists of the following standard paragraphs:* A8, A10, B, C, and D2.

#### Standard Paragraphs

A5. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit

application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A7. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A8. *Preliminary Permit*—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit applications or notices of intent. Any competing preliminary permit or development application or notice of intent to file a competing preliminary permit or development application must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice. A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A9. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a



development application to construct and operate the project.

**B. Comments, Protests, or Motions to Intervene**—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

**B1. Protests or Motions to Intervene**—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

**C. Filing and Service of Responsive Documents**—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, room 1027, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

**D2. Agency Comments**—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an

agency's comments must also be sent to the Applicant's representatives.

**E1. Filing and Service of Responsive Documents**—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE"; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protecting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 1027, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Dated: June 12, 1992, Washington, DC.

Lois D. Cashell,

Secretary.

[FR Doc. 92-14186 Filed 6-16-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD92-07070T Texas-55]

### Texas; NGPA Determination by Jurisdictional Agency Designating Tight Formation

June 11, 1992.

Take notice that on June 8, 1992, the Railroad Commission of Texas (Texas) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Cook Mountain Sand formation in portions of Wharton County, Texas, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The designated area is described in the attached appendix.

The notice of determination also contains Texas' findings that the referenced portion of the Cook Mountain Sand formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

### Appendix

The recommended Cook Mountain Sand Formation is located in Wharton County, Texas, within Railroad Commission District 3.

All of P. Norton Survey A-313  
All of S. Hanna Survey A-690  
All of Washington Co. RR Survey A-381  
All of F. Page Survey A-479  
All of H. Rogers Survey A-323  
All of I & GNRR Co. Survey A-227  
All of I & GNRR Co. Survey A-234  
All of J. Hamilton Survey A-588 except N & NW ¼  
SE corner of Washington Co. RR Survey A-364  
East half of Washington Co. RR Survey A-382  
Most Northerly half of J. Hamilton Survey A-589  
North & NW ¼ of L. Cronkrite Survey A-16  
North ¾ of Jos. McLawrence Survey A-275  
NW tip of I & GNRR Co. Survey A-228  
West Panhandle and NW ¼ of I & GNRR Co. Survey A-248  
North & NW ¼ of I & GNRR Co. Survey A-247  
NW tip of H. & TCRR Co. Survey A-186  
SW tip of Chas. Riley Survey A-618  
South ¼ of I & GNRR Co. Survey A-233  
South ¾ of B. Pearce Survey A-318  
South ½ of W. Vess Survey A-349  
SE ¼ of Washington Co. RR Survey A-379  
All of F. Page Survey A-477 except NW corner  
SE corner of Washington Co. RR Survey A-365

[FR Doc. 92-14187 Filed 6-16-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-3-29-036]

### Transcontinental Gas Pipe Line Corp.; Report of Refunds

June 10, 1992.

Take notice that on March 16, 1992, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing its Report of Refunds in compliance with the January 15, 1992 Order issued by this Commission under



Docket No. TA85-3-29-033. Such order required Transco to refund transition gas cost amounts recovered by Transco to its customers for the period ending February 12, 1992. Additionally, Transco was to submit a report to the Commission detailing the distribution of the refunds to the various customers and setting forth the data and computations supporting such distribution within sixty days of the date of the Order.

Transco states that on February 18, 1992, it refunded transition gas cost amounts, with interest, in accordance with the Commission's January 15 Order. Transco further states that it has served copies of the refund report to all its customers.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before June 17, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-14136 Filed 6-16-92; 8:45 am]

BILLING CODE 6717-01-M

## ENVIRONMENTAL PROTECTION AGENCY

[OPP-42029C; FRL-4063-6]

### New Mexico, Approval of Revised New Mexico Plan for Certification of Pesticide Applicators

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of approval of revised State Plan.

**SUMMARY:** In the Federal Register of March 4, 1992, EPA announced its intent to approve the revised New Mexico Plan for Certification of Applicators of Pesticides Classified for Restricted Use and Compound 1080 Livestock Protection Collars. EPA hereby announces final approval of the revised New Mexico Plan.

**ADDRESSES:** Copies of the New Mexico Certification Plan are available for review at the following locations during normal business hours.

1. New Mexico Department of Agriculture, Box 30005, Dept. 3189,

Corner of Gregg and Espina, Las Cruces, NM 88003-0005, Telephone: (505) 646-3007.

2. Environmental Protection Agency, Region VI, 1445 Ross Avenue, 12th Floor, suite 1200, Dallas, TX 75202-2733, Telephone: (214) 655-7239.

#### FOR FURTHER INFORMATION CONTACT:

Jerry Oglesby, Pesticides and Toxic Substances Branch, Region VI, U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, TX 75202-2733, Telephone: (214) 655-7239.

**SUPPLEMENTARY INFORMATION:** In the Federal Register of March 4, 1992 (57 FR 7551), EPA announced its intention to approve the revised New Mexico Plan for Certification of Applicators of Pesticides classified for restricted use and Compound 1080 Livestock Protection Collars. This revised New Mexico Plan consolidated the existing New Mexico Plan and approved amendments. The revised New Mexico Plan also contained an additional program for the certification of applicators of Compound 1080 Livestock Protection Collars. Interested parties were given 30 days to comment. There were nine comments received and all comments favored the approval of the revised New Mexico Plan. All commenters identified themselves as being involved in ranching in New Mexico. Each of the nine commenters, many of whom represented Associations, specifically supported the adoption of the New Mexico program for the certification of applicators of Compound 1080 Livestock Protection Collars.

EPA therefore grants final approval of the revised New Mexico Plan for the Certification of Applicators of Pesticides Classified for Restricted Use and Compound 1080 Livestock Protection Collars.

Dated: June 4, 1992.

Joe D. Winkle,

Acting Regional Administrator, Region VI.

[FR Doc. 92-14098 Filed 6-16-92; 8:45 am]

BILLING CODE 6560-50-F

[OPP-34013A; FRL 4059-6]

### Sulfur: Receipt of Comments on Reregistration Eligibility Document

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Amendment to Sulfur Reregistration Eligibility Document.

**SUMMARY:** This Notice, pursuant to section 4(g)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) 7 U.S.C. 136 et seq., constitutes an

amendment to the Sulfur Reregistration Eligibility Document and concludes the comment period. The amendment exempts certain sulfur products labeled only for home and garden use from the 24-hour reentry labeling requirement.

#### FOR FURTHER INFORMATION CONTACT:

Eric Feris, Reregistration Branch, Special Review and Reregistration Division (H7508W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location: Crystal Station 1, WF33C5, 2800 Crystal Drive, Arlington, Virginia. By telephone, call (through the Virginia Relay: 1-800-828-1140), (703) 308-8048.

**SUPPLEMENTARY INFORMATION:** On June 5, 1991 EPA issued a Notice published in the Federal Register (56 FR 25699) announcing the availability of the Sulfur Reregistration Eligibility Document (RED). The RED was issued as a final document, but a public comment period of 60 days was initiated. The Sulfur RED outlined EPA's position on the use of Sulfur as a pesticide and set forth requirements for product-specific data pursuant to FIFRA section 4(g)(2)(B).

Only one set of comments was received. An ad-hoc coalition of Sulfur registrants responded to the RED on July 1, 1991. This response requested three waivers or exemptions from requirements imposed by the Sulfur RED.

The first request was for a waiver of the acute toxicity data requirements in the Sulfur RED for products which meet the following three criteria:

1. Sulfur is the sole active ingredient.
2. No "List 1" or "List 2" inert ingredients are included.
3. The products contain only innocuous inert ingredients or inert ingredients which are exempt from tolerance requirements under 40 CFR 180.1001 or by other specific Agency action.

EPA denied this request. The Agency determined that an exemption from the requirement for a tolerance is not relevant to the assessment of acute toxicity of inert ingredients contained in pesticide formulations. In addition, whether or not an inert ingredient is on List 1 or List 2 is not pertinent to support this waiver request. Assignment of an inert ingredient to List 1 or List 2 bears no significance or relation to the acute toxicity assessment of the sulfur products. Acute toxicity data are needed to determine the appropriate toxicity category, signal word and precautionary statements for each registered product.

The second request was for exemption of products meeting the



above three criteria from the requirements to submit product specific product chemistry data identified in the Sulfur RED, except for guideline requirements 61-1 (Product Identity), and 62-2 (Certification of Limits). EPA is denying this request except for guideline requirements 63-2 (Color), and 63-4 (Odor). Storage Stability data (63-17) must be generated by registrants and kept on file, but are not required to be submitted except for sulfur gasser products used to control rodents. The Agency needs complete information on all product components and manufacturing byproducts to allow thorough evaluation of safety.

The third request was for an exemption from the requirement that a 24-hour reentry statement be added to the labels of sulfur-containing products which meet the above three criteria and are registered only for home and garden uses. EPA has granted approval of this request for all sulfur products registered for home and garden plant pest and disease control, animal ectoparasite control, and for all candle and rodent gasser applications. If a label lists agricultural uses as well as home and garden uses, the 24-hour reentry statement is required, as stated by the original Sulfur RED. However, on labels which list both agricultural and home and garden uses, the directions for use for home and garden applications must be listed separately from the directions for use for agricultural applications so that the reentry statement will not apply to the home and garden uses.

The original Sulfur RED, the Sulfur RED fact sheet, and this Notice which amends the RED with regard to the 24-hour reentry interval for home and garden use products are available from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, ATTN: Order Desk; telephone: (703) 487-4650. To obtain the Sulfur RED, request publication number PB92-114453; to obtain the fact sheet, request publication number PB92-114347. This statement of amendment of the Sulfur RED is also being forwarded to NTIS and will be available soon.

Dated: June 4, 1992.

Daniel M. Borolo,  
Director, Special Review and Reregistration  
Division, Office of Pesticide Programs.

[FR Doc. 92-14223 Filed 6-16-92; 8:45 am]

BILLING CODE 6560-50-F

[FRL-4143-3]

**CERCLA Administrative Order on Consent for Response Costs at Chronar Corporation's Bakers Basin Facility in Lawrence Township, Mercer County, NJ**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed Consent Order; Request for comments.

**SUMMARY:** The Environmental Protection Agency ("EPA") Region II announces its intent to issue a proposed Administrative Order on Consent ("Order on Consent"), pursuant to sections 106, 107, 122(h) and 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9606, 9607, 9622(h) and 9622(i), between EPA and Chronar Corporation for the performance of a private removal action and settlement of certain EPA claims for response costs.

The proposed Consent Order provides for the Chronar Corporation to perform a private removal action treating and disposing of approximately 126 compressed gas cylinders. Because Chronar Corporation filed for protection under chapter 11 of the Bankruptcy Code and plans to liquidate, and to avoid protracted litigation, EPA and Chronar have agreed in principle that Chronar will perform the removal action and EPA will waive certain EPA claims for past response costs and response costs to be incurred up to the completion of the removal action. However, the settlement does not include future costs that EPA may incur for future or unknown environmental problems at the Bakers Basin facility.

**DATES:** EPA will receive comments relating to the proposed Order on Consent until July 17, 1992.

**ADDRESSES:** Comments may be mailed to Douglas R. Blazey, Regional Counsel, U.S. Environmental Protection Agency, Attention: Chief, New Jersey Superfund Branch, room 309, 26 Federal Plaza, New York, New York, 10278. The proposed Order on Consent may be examined at the Office of Regional Counsel, U.S. Environmental Protection Agency, Region II, room 309, 26 Federal Plaza, New York, New York, 10278. A copy of the proposed Order on Consent may be obtained in person or by mail from the Office of Regional Counsel, New Jersey Superfund Branch, U.S. Environmental Protection Agency, Region II, room 309, 26 Federal Plaza, New York, New York, 10278.

**FOR FURTHER INFORMATION CONTACT:** Melva J. Hayden, Assistant Regional

Counsel, New Jersey Superfund Branch, U.S. Environmental Protection Agency, 26 Federal Plaza, room 309, New York, New York 10278, Telephone (212) 264-3148.

Dated: May 26, 1992.

Constantine Sidamon-Eristoff,  
Regional Administrator.

[FR Doc. 92-14224 Filed 6-16-92; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4143-2]

**Proposed Settlements Under Sections 122(g) and 122(h) of Comprehensive Environmental Response, Compensation and Liability Act**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of proposed administrative settlements and opportunity for public comment.

**SUMMARY:** The U.S. Environmental Protection Agency ("EPA") is proposing to enter into two administrative settlements to resolve claims under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"). Notice is being published to inform the public of the proposed settlements and of the opportunity to comment. The settlements are intended to resolve past and estimated future liabilities of 136 *de minimis* parties and 27 non-*de minimis* parties for costs incurred, or to be incurred, by EPA at the Shore Realty Site, also known as the Applied Environmental Services, Inc. Site in Glenwood Landing, Nassau County, New York.

**DATES:** Comments must be provided on or before July 17, 1992.

**ADDRESSES:** Comments should be addressed to the U.S. Environmental Protection Agency, Office of Regional Counsel, New York/Caribbean Superfund Branch, room 437, 26 Federal Plaza, New York City, New York, 10278 and should refer to: In Re: Applied Environmental Services, Inc. Site, Glenwood Landing, Nassau County, New York, U.S. EPA Index No. II CERCLA-122-20201 and U.S. EPA Index No. II CERCLA-122-20202.

**FOR FURTHER INFORMATION CONTACT:** U.S. Environmental Protection Agency, Office of Regional Counsel, New York/Caribbean Superfund Branch, room 437, 26 Federal Plaza, New York City, New York 10278, (212) 264-9794, Attention: Alexander Schmandt.



**SUPPLEMENTARY INFORMATION:**

In accordance with section 122(i)(1) of CERCLA, notice is hereby given of two proposed administrative settlements concerning the Applied Environmental Services, Inc. Site (the "Site"), Glenwood Landing, Nassau County, New York. Sections 122(g) and 122(h) of CERCLA provide EPA with authority to consider, compromise, and settle certain claims for costs incurred by the United States.

The proposed administrative agreements would reimburse EPA \$275,000 for its past response costs and certain estimated future response costs at the Site. EPA has incurred past response costs of \$125,000 at the Site and will incur estimated future response costs of \$150,000 for EPA's oversight of the remedial action at the Site. The remedial action will be implemented pursuant to a consent judgment entered into by the State of New York and certain defendants in the case of *State of New York versus Shore Realty Corp.*, Nos. 84 CV 0864 and 85 CV 2270 (E.D.N.Y.).

Administrative Order on Consent, Index No. II CERCLA-122-20201, which was negotiated pursuant to section 122(g)(4) of CERCLA, provides that the *de minimis* respondents (i.e. generators of hazardous substances that contributed less than one percent by volume of the hazardous substances to the Site) will reimburse EPA their allocated share of EPA's past response costs and estimated future response costs. In addition to reimbursing EPA's response costs, the *de minimis* respondents will pay a premium to a trust fund established pursuant to the State of New York settlement, which the non-*de minimis* defendants will use to implement the remedial program at the Site. Upon payment of its share of EPA's response and the premium, a *de minimis* respondent will be released from liability for past and future CERCLA response costs at the Site.

One-hundred and thirty-six potentially responsible parties ("PRPs") of the one-hundred and ninety-eight eligible for *de minimis* status at the Site have committed to participate in the *de minimis* settlement: A & T Auto Radiator; AAR Technical Service Center Corp.; Abilities, Inc.; Accurate Forming Corp.; AD-View Publishers Printing Corp.; ADEMCO, Division of Pittway Corp.; Advance Central Station Alarm Co.; Aircraft Finishing Corp.; Aladdin Transparent Packaging Corp.; All American Metal Corp.; American Bank Stationery; American Biltrite, Inc.; American Precision Finishing Corp.; American Technical Ceramics Corp.; Arkwin Industries, Inc.; Armstrong

World Industries, Inc.; AT&T Resource Management Corp.; Avery Label; Award Packaging Corp.; Baumann & Sons Buses, Inc.; Benjamin Moore & Co.; Beth Israel Hospital; Brookhaven Memorial Hospital Medical Center; C.J. Osborn Chemicals, Inc.; C.W. Post Center of L.I.U.; C-P Convertors, Inc.; CAMVAK International, Inc.; Castlereagh Press, Inc.; Cellu Craft, Inc.; Center Laboratories Inc.; Central Aviation and Marine Corp.; Charles Ross & Son Company; Chemical Pollution Control, Inc.; ChemLawn Corp.; Coherent Communications Systems Corp.; Colonial Craft; Comstron Corp.; Continental Can Co.; Convertors Inc.; Dasco Cleaners; Datacard Corp.; Designatronics, Inc.; Dionics, Inc.; Dorr-Oliver, Inc.; Driver-Harris Co.; Dytrol Corp.; Edgewood State Hospital; Electronic Devices, Inc.; Ell-Bee Chemical; Fabric Leather Corp.; Falcon Automotive Products, Inc.; Freeport, Village of; General Waste Oil Co.; Glendale Protective Technologies, Inc.; Gould, Inc.; Grumman Aerospace Corp.; GTE Products Corp.; H&N Chemical; Halm Industries Co., Inc.; Hartman Systems Co.; Hetem Bros., Inc.; Hitemco Division—Barson Composites Corp.; Inco Selective Surfaces, Inc./MPD Technology, Corp.; Inscorn Electronics Corp.; Irwin Measuring Tool Co.; ITM, Ltd.; J. Josephson, Inc.; Kimball Systems; Kirker Chemical Co.; Kleartone, Inc.; Lancaster Metals Science Corp.; Lawrence-McFadden Co.; Lin Pac Corrugated Container; Logus Mfg. Corp.; Long Island Lighting Company, Lyndal Chemical, Division of Millmaster Onyx Corp.; Magnetic Media Corp.; Marathon Carey McFall; Marconi Circuit Technology Corp. (formerly known as Circuit Technology); Marine Pollution Control; Marksmen Mfg., Inc.; Mattituck Airbase, Inc./Mattituck Aviation Corp.; Metal Improvement Co., Inc.; Milgray Electronics, Inc.; Mod-A-Can Corp.; Monoplast Chemical Corp.; New York State Office of General Services; New York Telephone Co.; Newsday; Oakes Machine Corp.; Oneida Packaging; Orelube Corp.; Paxar Corp.; Penguin Industries, Inc.; Periphonics Corp.; Poly-Pak Industries, Inc.; Polymer Industries; Prestigeline Inc.; Pride Solvents & Chemical Co., Inc.; Public Service Electric and Gas Co.; Purex Corp.; Quantronix Corp.; Republic Electronics Co.; Ridge Printing Co., Inc.; Roche Biomedical Laboratories, Inc.; Rocky Point Auto Parts, Inc.; Schildwachter, Fred M. & Sons; Secrest Handprints, Inc.; Shaw Aero Devices, Inc.; Solid Power, Inc.; South Nassau Communities Hospital; St. Francis Hospital; Technical Coatings Co.; Tekni-Plex Inc.;

Telephonics Corp.; Thomson Industries, Inc.; Thrift Auto Painting Co., Inc.; Time Electronics Sales Co.; Tire Supply Corp. of Suffolk; Transcontrol Corp.; Tri Metal Fabrication, Inc.; Ulano Corp.; Unifoil Corp.; United States Coast Guard; United States Veterans Administration; Utility Manufacturing Co., Inc.; Vernitron Corp.; Vicon Industries, Inc.; Volt Information Sciences, Inc.; Wallmates Vinyls, Inc.; Walt's Auto Radiator & Heater; Wantagh Union Free School District; Washington Molding; Wesco Steel Drum Co., Inc.; Willow Press, Inc.; and Winkler Cleaners, Inc.

Administrative Cost Recovery Agreement, Index No. II CERCLA-122-20202, which was negotiated pursuant to section 122(h) (1) of CERCLA, provides that the owner/operators of the Site and the generators of hazardous substances, who contributed greater than one percent by volume of the hazardous substances to the Site, (collectively, the "non-*de minimis* respondents") will reimburse EPA the remainder of EPA's past and estimated future response costs that have not been reimbursed pursuant to the *de minimis* settlement. Upon payment of EPA's response costs, the non-*de minimis* respondents will be released from liability for EPA's \$125,000 past response costs and EPA's estimated future oversight costs up to \$150,000 for the oversight of the remedial action conducted pursuant to the State of New York settlement. The non-*de minimis* respondents will remain liable for any additional future EPA oversight costs in excess of \$150,000, as well as any other EPA response costs incurred at the Site.

Twenty-seven non-*de minimis* PRPs (8 owner/operators and 19 generators) out of thirty-seven (9 owner/operators and 28 generators) at the Site have committed to participate in the non-*de minimis* settlement: Bartur, Amnon; Ber Mar Corp.; Brookhaven National Laboratory; Calleia Bros., Inc.; Capitol Records, Inc.; Chamberlain Mfg. Corp.; Chemical Waste Disposal Corp.; Dayton T. Brown, Inc.; Dial Ace Uniform Supply Co.; Dri Print Foils, Inc.; General Electric Co.; General Instrument Corp.; The Glidden Company; LeoGrande, Donald; LeoGrande, Joseph Jr.; LeoGrande, Joseph Sr.; Maken Industries, Inc.; Phillips Petroleum Co.; Raffi & Swanson, Inc. (Surface Coatings, Inc.); Saleh, Joseph; The Sherwin-Williams Company; Shore Realty Corp.; Texaco Refining and Marketing, Inc.; Valspar Corp.; Waters Chromatograph, Division of Millipore Corp.; Westinghouse Electric Corp.; and Windsor Fuel Co., Inc.



A copy of the proposed administrative settlement agreements, as well as background information relating to the settlements, may be obtained in person or by mail from EPA's Region II Office of Regional Counsel, New York/Caribbean Superfund Branch, room 437, 26 Federal Plaza, New York City, New York, 10278, Attention: Alexander Schmandt.

Dated: June 1, 1992.

Kathleen C. Callahan,

Director, Emergency and Remedial Response Division.

[FR Doc. 92-14225 Filed 6-16-92; 8:45 am]

BILLING CODE 6560-50-M

## FEDERAL COMMUNICATIONS COMMISSION

### Public Information Collection Requirement Submitted to Office of Management and Budget for Review

June 11, 1992

The following information collection requirements have been approved by the Office of Management and Budget as required by the Paperwork Reduction Act of 1980, [44 U.S.C. 3507]. For further information contact Judy Boley, Federal Communications Commission, (202) 632-7513.

OMB No.: 3060-0136

Title: Temporary Permit to Operate a General Mobile Radio Service System  
Form No.: FCC 574-T

The approval on FCC 574-T has been extended through 4/30/95. The June 1990 edition with the previous expiration date of 4/30/92 will remain in use until updated forms are available.

OMB No.: 3060-0107

Title: Private Radio Application for Renewal, Reinstatement and/or Notification of Change to License Information  
Form No.: FCC 405-A

A revised application form FCC 405-A has been approved for use through 4/30/95. The current edition of the form is dated May 1992.

OMB No.: 3060-0139

Title: Request for Antenna Height Clearance and Obstruction Marking and Lighting Specifications  
Form No.: FCC 854

A revised request form FCC 854 has been approved for use through 4/30/95.

The current edition of the form is dated May 1992. All previous editions are obsolete.

OMB No.: 3060-0318

Title: Notification of Status of Facilities  
Form No.: FCC 489

A revised application form FCC 489 has been approved for use through 4/30/93. The March 1991 edition with an OMB expiration date of 4/30/93 will remain in use until revised forms are available.

OMB No.: 3060-0444

Title: 800 MHz Construction Letter  
Form No.: FCC 800-A

A revised form letter FCC 854 has been approved for use through 4/30/95. The April 1992 edition with an OMB expiration date of 8/31/93 will remain in use until revised forms are available.

OMB No.: 3060-0497

Title: Mediator Survey and Party Survey Forms  
Form No.: FCC 91 and 92

New survey forms FCC 91 and 92 have been approved for use through 5/31/95. The current edition of the survey forms is dated July 1992.

OMB No.: 3060-0498

Title: Confidential Alternative Dispute Resolution Statement  
Form No.: FCC 90

A new statement form FCC 90 has been approved for use through 5/31/95. The current edition of the form is dated July 1992.

OMB No.: 3060-0499

Title: 470-512 MHz Eight Month Mobile Loading  
Form No.: FCC 6027-H

The form letter FCC 6027-H has been approved for use through 4/30/95. The February 1988 edition will remain in use until revised forms are available.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 92-14250 Filed 6-16-92; 8:45 am]

BILLING CODE 6712-01-M

### Public Information Collection Requirement Submitted to Office of Management and Budget for Review

June 12, 1992.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under

the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, Downtown Copy Center, 1990 M Street, NW., suite 640, Washington, DC 20036, (202) 452-1422. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on this information collection should contact Jonas Neihardt, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395-4814.

Note: The Commission had requested emergency OMB approval for this information collection by June 3, 1992.

OMB Number: None

Title: Political Broadcast Audit

Action: New collection

Respondents: Businesses or other for-profit (including small businesses)

Frequency of Response: One time audit  
Estimated Annual Burden: 60 responses;  
1 hour average burden per response;  
60 hours total annual burden

Needs and Uses: The collection of this information is needed for the commission to determine whether broadcast licensees and cable television system operators are maintaining "political" files containing information related to sales of time to candidates about their commercial and political sales practices, as required by 47 CFR 73.1943 of the Commission's rules and are disclosing specific information to candidates about their commercial and sales practices as required by 47 CFR 73.1942(b). The information will be used by FCC in gauging compliance by these entities with the above-referenced political broadcast rules and taking any appropriate enforcement action.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 92-14251 Filed 6-16-92; 8:45 am]

BILLING CODE 6712-01-M

### Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/state	File No.	MM docket No.
A. Rosamond Radio, Inc.	Rosamond, CA.	BPH-910225MG	92-121
B. Jamie Leigh Coberly	Rosamond, CA.	BPH-910225MH	



Applicant	City/state	File No.	MM docket No.
C. Diane K. Hitt.	Rosamond, CA	BPH-910225MI	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, is used below to signify whether the issue in question applies to that particular applicant.

Issue heading	Applicants
1. City Coverage.....	A, B, C
2. Environmental Impact.....	B, C
3. Comparative.....	A, B, C
4. Ultimate.....	A, B, C

3. If there are any non-standardized issues in this proceeding, the full text of the issue and the applicants to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036 (telephone 202-452-1422).

W. Jan Gay,

Assistant Chief, Audio Services Division,  
Mass Media Bureau.

[FR Doc. 92-14248 Filed 6-16-92; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1895]

### Petitions for Reconsideration and Clarification of Actions in Rule Making Proceedings

June 10, 1992.

Petitions for reconsideration and clarification have been filed in the Commission rule making proceeding listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of this document is available for viewing and copying in room 239, 1919 M Street, NW., Washington, DC, or may be purchased from the Commission's copy contractor Downtown Copy Center (202) 452-1422.

Oppositions to these petitions must be filed July 2, 1992.

See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

*Subject:* Revision of Radio Rules and Policies (MM Docket No. 91-140)  
Number of Petitions filed: 20.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92-14029 Filed 6-16-92; 8:45 am]

BILLING CODE 6712-01-M

### FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-943-DR]

#### California; Amendment to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Notice.

**EFFECTIVE DATE:** May 25, 1992.

**SUMMARY:** This notice amends the notice of a major disaster for the State of California (FEMA-943-DR), dated May 4, 1992, and related determinations.

#### FOR FURTHER INFORMATION CONTACT:

Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that the incident period for this disaster is closed effective May 25, 1992.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Grant C. Peterson,

Associate Director, State and Local Programs and Support.

[FR Doc. 92-14154 Filed 6-16-92; 8:45 am]

BILLING CODE 6718-02-M

### FEDERAL MARITIME COMMISSION

#### Port of Seattle/Jore Marine Services; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

*Agreement No:* 224-200110-001.

*Title:* Port of Seattle/Jore Marine Services Terminal Agreement.

*Parties:* Port of Seattle ("Port"), Jore Marine Services, Inc.

*Synopsis:* The amendment extends for ten years, a lease between the parties for 21.08 acres of yard and apron area at the Port's Terminal 115.

*Agreement No:* 301-200670.

*Title:* Georgia Ports Authority/National Shipping Company of Saudi Arabia Terminal Agreement.

*Parties:* Georgia Ports Authority ("GPA"), National Shipping Company of Saudi Arabia ("NSCSA").

*Synopsis:* The subject Agreement between GPA and NSCSA establishes a rate agreement for services to be provided and performed by GPA at its Savannah, Georgia terminal facilities.

Dated: June 11, 1992.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 92-14150 Filed 6-16-92; 8:45 am]

BILLING CODE 6730-01-M

### FEDERAL RESERVE SYSTEM

#### Citizens National Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank



holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than July 10, 1992.

**A. Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Citizens National Bancorp, Inc.*, Springfield, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of *Citizens National Bancshares, Inc.*, Springfield, Missouri, and thereby indirectly acquire *Citizens National Bank of Springfield*, Springfield, Missouri.

**B. Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *New Mexico National Financial Incorporated*, Roswell, New Mexico; to become a bank holding company by acquiring 80 percent of the voting shares of *Western Bancshares of Truth or Consequences, Inc.*, Truth or Consequences, New Mexico, Firstbank, Farmington, Farmington, New Mexico, and Firstbank of Truth or Consequences, Truth or Consequences, New Mexico.

Board of Governors of the Federal Reserve System, June 11, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-14157 Filed 6-16-92; 8:45 am]

BILLING CODE 6210-01-F

**Jay H. Lustig and Sharen Tyber Lustig; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies**

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are

set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 7, 1992.

**A. Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Jay H. Lustig and Sharen Tyber Lustig*, Redondo Beach, California; to acquire 20 percent of the voting shares of *National Bancshares Corporation of Texas*, San Antonio, Texas, and thereby indirectly acquire *NBC Bank - Eagle Pass, N.A.*, Eagle Pass, Texas, *NBC Bank - Laredo, N.A.*, Laredo, Texas, and *NBC Bank - Rockdale*, Rockdale, Texas.

Board of Governors of the Federal Reserve System, June 11, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-14158 Filed 6-16-92; 8:45 am]

BILLING CODE 6210-01-F

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Alcohol, Drug Abuse, and Mental Health Administration**

**National Institute on Drug Abuse; Meetings**

**Editorial Note:** This document was incorrectly published on June 8, 1992. The corrected document appears below.

Pursuant to Public Law 92-463, notice is hereby given of the meetings of the advisory committees of the National Institute on Drug Abuse for July 1992.

The initial review groups will be performing review of applications for Federal assistance; therefore, portions of these meetings will be closed to the public as determined by the Administrator, ADAMHA, in accordance with 5 U.S.C. 552b(c)(6) and 5 U.S.C. app. 2 10(d).

Summaries of the meetings and rosters of committee members may be obtained from: Ms. Camilla L. Holland, NIDA Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration, Parklawn Building, room 10-42, 5600 Fishers Lane, Rockville, MD 20857 (Telephone: 301/443-2755).

Substantive program information may be obtained from the contacts whose

names, room numbers, and telephone numbers are listed below.

**Committee Name:** Biobehavioral/Clinical Subcommittee, Drug Abuse AIDS Research Review Committee.

**Meeting Date:** July 14-15, 1992.

**Place:** Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, Maryland 20814.

**Open:** July 14, 9 a.m. to 9:30 a.m.

**Closed:** Otherwise.

**Contact:** Iris W. O'Brien, room 10-42, Parklawn Building, Telephone (301) 443-2620.

**Committee Name:** Sociobehavioral Subcommittee, Drug Abuse AIDS Research Review Committee.

**Meeting Date:** July 21-23, 1992.

**Place:** Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, Maryland 20814.

**Open:** July 21, 9 a.m. to 9:30 a.m.

**Closed:** Otherwise.

**Contact:** H. Noble Jones, room 10-22, Parklawn Building, Telephone (301) 443-9042.

**Dated:** June 2, 1992.

Peggy W. Cockrill,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 92-13246 Filed 6-5-92; 8:45 am]

BILLING CODE 1505-01-D

**National Institute of Mental Health; Meeting**

**Editorial Note:** This document was incorrectly published on June 8, 1992. The corrected document appears below.

Pursuant to Public Law 92-463, notice is hereby given of a meeting of an advisory committee of the National Institute of Mental Health for July 1992.

The initial review group will be performing review of applications for Federal assistance; therefore, a portion of this meeting will be closed to the public as determined by the Acting Administrator, ADAMHA, in accordance with 5 U.S.C. 552b(c)(6) and 5 U.S.C. app. 2 10(d).

The summary of the meeting and roster of committee members may be obtained from: Ms. Joanna L. Kieffer, NIMH Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration, Parklawn Building, room 9-105, 5600 Fishers Lane, Rockville, MD 20857 (telephone: 301-443-4333).

Substantive program information may be obtained from the contact whose name, room number, and telephone number are listed below.



**Committee Name:** Behavioral Subcommittee, Mental Health Special Projects Review Committee.

**Meeting Date:** July 21-22, 1992.

**Place:** Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

**Open:** July 21, 9-10 a.m.

**Closed:** Otherwise.

**Contact:** Phyllis D. Artis, room 9C-15, Parklawn Building, Telephone (301) 443-6470.

**Dated:** June 2, 1992.

**Peggy W. Cockrill,**

*Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.*

[FR Doc. 92-13245 Filed 6-5-92; 8:45 am]

BILLING CODE 1505-01-D

## Centers for Disease Control

[Announcement Number 269]

### Development of Innovative Technology for the Measurement of Lead in Blood; Availability of Funds for Fiscal Year 1992

#### Introduction

The Centers for Disease Control (CDC), the Nation's prevention agency, announces the availability of funds in Fiscal Year 1992 for the development and new and innovative technology, or significant improvement of existing technology, for the measurement of lead in blood. State-, community- and physician office-based childhood lead poisoning prevention programs have a need for reasonably priced, accurate, precise, portable, rugged, and easy-to-operate instruments or analytical techniques to measure the concentration of lead in blood. Such programs screen large numbers of infants and young children and identify those with lead poisoning.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Environmental Health. (For ordering a copy of Healthy People 2000, see the section Where to Obtain Additional Information.)

**Authority:** This program is authorized under sections 301(a) [42 U.S.C. 241(a)] and 317A [42 U.S.C. 247b-1] of the Public Health Service Act, as amended. Program regulations are set forth in title 42, Code of Federal Regulations, part 51b.

#### Eligible Applicants

Eligible applicants include nonprofit and for-profit organizations. Thus, universities, colleges, research institutions, hospitals, other public and private organizations, state and local health departments or their bona fide agents or instrumentalities, minority and/or women-owned business are eligible for these grants. Individual organizations that now have a CDC Cooperative Research and Development Agreement (CRADA) dealing with blood lead are eligible to apply. However, if funded the CDC CRADA dealing with blood lead will be terminated.

**Note:** Eligible applicants are encouraged to enter into contracts, including consortia agreements, as necessary to meet the requirements of the program and strengthen the overall application.

#### Availability of Funds

Approximately \$550,000 per year will be available to fund up to four grants. It is expected that the average new award will be approximately \$125,000 for the first year, with a range of \$90,000 to \$150,000. The new awards are expected to begin on or about September 30, 1992. Awards generally are made for a 12-month budget period within project periods not to exceed 3 years. Funding estimates may vary and are subject to change. Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

#### Purpose

State and community health agencies are the principal delivery points for childhood lead screening and related medical and environmental management activities. Universal screening of children is recommended under the provisions of the 1991 CDC Lead Statement; however, the lack of analytical systems (methods plus instrumentation) which are easy-to-operate, rugged, and suitable for field use in screening programs have made it difficult and costly for agencies to develop programs for the elimination of this totally preventable disease.

This program will provide financial support for the development and validation of new and innovative technology leading to better blood lead measurement systems. In contrast, the CRADA with Radiometer Analytical A/S, and other CRADAs which are contemplated, are intended to improve and refine existing proprietary lead measurement technology owned by the non-government CRADA partner, for the purpose of making acceptable blood lead measurement systems available for childhood lead poisoning prevention

programs as soon as possible. CDC envisions the possibility that research and development performed by the Grantee may, in some cases, also aid in the achievement of CRADA objectives.

#### Program Requirements

The following are essential requirements of the Grantee:

1. A principal investigator with the authority, responsibility, and research experience to carry out the objectives of the grant.
2. Ability to provide qualified staff, laboratory and/or production facilities, equipment, and other resources necessary to carry out the objectives of the grant.
3. Ability to conduct a scientifically sound, goal-oriented research and development program which will yield all or portions of practical analytical systems which measure one or more chemicals in complex solutions. Ability to understand and address the difficult analytical problem presented by a blood sample matrix.
4. Ability to publish the results of the research effort in the peer-reviewed scientific literature, or otherwise make the research findings available for objective evaluation and use.

#### Evaluation Criteria

The applications will be reviewed and evaluated according to the following criteria:

1. *Evidence of Technical Expertise and Research Capacity (30%).* The applicant's ability to successfully plan, implement, and conduct a successful research and development program aimed at clinical measurement systems including the development and validation of analytical methods and/or instruments.
2. *Understanding the Problem (20%).* The applicant's understanding of the requirements, objectives, and interactions required for a successful research and development program. The applicant must also present evidence of understanding of the difficult analytical problem presented by the complexity of a blood sample matrix for the measurement of trace elements, and of the potential for interferences and contamination during sample preparation and analysis.
3. *Program Personnel (10%).* The extent to which the proposal has described (a) the qualifications and commitment of the applicant including training and experience in chemistry, biochemistry, biomedical engineering or other relevant scientific disciplines, (b) detailed allocations of time and effort of staff devoted to the project, (c)



information on how the applicant will develop, implement and administer the program, and (d) the qualifications of the support staff.

4. **Technical Approach (30%).** The overall technical merit of the research plan and the soundness and scientific validity of the proposed measurement system. The adequacy of the research plan includes the extent to which the evaluation plan can be used to effectively measure progress towards the stated objectives.

5. **Collaboration (5%).** While collaboration is not required, it is encouraged if necessary to accomplish the research objectives in a timely manner. If applicable, the applicant should demonstrate the ability to collaborate with other research centers, manufacturers, or commercial interests to conduct the described research and development plan. Evidence of collaborative relationships include jointly developed plans for developing separate components of the analytical system and written commitments of support from other program-related entities that describe the collaborative activities.

6. **Plans to Publicize the Research Effort (5%).** The purpose of this grant is to encourage the rapid development and deployment of measurement systems for blood lead which will be useful in lead poisoning prevention screening programs. Therefore, an explanation of how the grantee plans to encourage the publication of the research findings or otherwise make the information available to the public is required. Research which results only in findings of academic interest with no practical application to the objectives of the grant is not acceptable.

7. **Budget Justification (Not Scored).** The budget will be evaluated for the extent to which it is reasonable, clearly justified, and consistent with the intended use of grant funds. The adequacy of existing and proposed facilities to support program activities also will be evaluated.

#### Executive Order 12372 Review

Applications are not subject to review by Executive Order 12372, Intergovernmental Review of Federal Programs.

#### Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.197.

#### Application Submission and Deadline

Applicants should follow the guidance provided in PHS Form 398 (REVISED 9/91) in preparing grant applications. The

original and two copies must be submitted to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control 255 East Paces Ferry Road, NE., room 300, Atlanta, Georgia 30305, on or before August 12, 1992.

1. **Deadline.** Applications shall be considered as meeting the deadline if they are either: A. Received on or before the deadline date, or

B. Sent on or before the deadline date and received in time for submission for the review process. Applicants must request a legibly dated U.S. Postal Service Postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.

2. **Late Applications.** Applications which do not meet the criteria in 1.A. or 1.B. above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

#### Where to Obtain Additional Information

To receive additional written information call (404) 332-4561. You will be asked to leave your name, address, and phone number and will need to refer to Announcement 269. You will receive a complete program description, information on application procedures, and application forms.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Lisa Tamaroff, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, Mailstop E-14, Atlanta, Georgia 30305, (404) 842-6630. Programmatic technical assistance may be obtained from Dayton T. Miller, Ph.D., or Daniel C. Paschal, Ph.D., Nutritional Biochemistry Branch, Division of Environmental Health Laboratory Sciences, National Center for Environmental Health and Injury Control, Centers for Disease Control, 1600 Clifton Road, NE., Mailstop F-18, Atlanta, Georgia 30333, (404) 488-4026.

Please refer to Announcement Number 269 when requesting information and submitting any application.

A copy of Healthy People 2000 (Full Report, Stock No. 017-001-00474-0) or Healthy People 2000 (Summary Report, Stock No. 017-001-00473-1) is available through the Superintendent of Documents, Government Printing Office, Washington, DC, 20402-9325 (Telephone (202) 783-3238).

A copy of Preventing Lead Poisoning in Young Children—a Statement by the Centers for Disease Control—October 1991 may be obtained from the Lead Poisoning Prevention Branch, Division of Environmental Hazards and Health Effects, National Center for Environmental Health and Injury Control Centers for Disease Control, 1600 Clifton Road, NE., Mailstop F-28, Atlanta, Georgia 30333, (404) 488-4880.

Dated: June 11, 1992.

Robert L. Foster,

Acting Associate Director for Management and Operations, Centers for Disease Control.  
[FR Doc. 92-14151 Filed 6-16-92; 8:45 am]

BILLING CODE 4160-18-M

#### Food and Drug Administration

[Docket No. 92F-0214]

#### Stroh Brewery Co.; Filing of Food Additive Petition

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that Stroh Brewery Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of aspartame in beer containing less than 3 percent of alcohol by volume.

**FOR FURTHER INFORMATION CONTACT:** F. Owen Fields, Center for Food Safety and Applied Nutrition (HFF-333), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-254-9523.

**SUPPLEMENTARY INFORMATION:** Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2A4324) has been filed by Stroh Brewery Co., 100 River Pl., Detroit, MI 48207-4291. The petition proposes to amend the food additive regulations in § 172.804 *Aspartame* (21 CFR 172.804) to provide for the safe use of aspartame in beer containing less than 3 percent of alcohol by volume.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the *Federal Register* in accordance with 21 CFR 25.40(c).



Dated: June 5, 1992.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 92-14173 Filed 6-16-92; 8:45 a.m.]

BILLING CODE 4160-01-F

## Health Care Financing Administration

### Statement of Organization, Functions, and Delegations of Authority; Facilities Management Contract

Part F of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Health Care Financing Administration (HCFA), (Federal Register, Vol. 56, No. 102, p. 24082 and pp. 24084-85, dated Tuesday, May 28, 1991) is amended to reflect various changes resulting from the transfer of the management of the Facilities Management Contract from the Office of Computer Operations, Bureau of Data Management and Strategy (BDMS), to the Office of Information Resources Management, BDMS.

The specific changes to Part F are:

- Section FH.20.D.1., Office of Information Resource Management (FHE1), is deleted in its entirety and replaced by the following revised functional statement. The new section FH.20.D.1 reads as follows:

#### 1. Office of Information Resources Management (FHE1)

- Plans, organizes, and coordinates the activities required to maintain an HCFA-wide Information Resources Management (IRM) program including the management of funds to support IRM operations and information systems development activities.
- Formulates and executes the HCFA IRM common expense budget and Information Technology Systems plans and budgets in conjunction with HCFA-wide budgetary submissions to the Department.
- Develops and maintains a process to administer, document, and monitor the software and hardware changes planned and implemented within HCFA.
- Provides systematic identification, assessment, and certification of new, revised, or existing HCFA information systems and processes in accordance with HCFA policies, standards, information plans, and department requirements.
- Develops, coordinates, and directs the HCFA automated data processing (ADP) Systems Security Program to ensure the protection of HCFA systems and ADP equipment.

- Designs, evaluates, and performs analyses related to HCFA-wide data administration and database administration improvement projects.
- Negotiates and administers agreements and provides ADP liaison between HCFA users, the Social Security Administration, and other external organizations for the provision of ADP capacity and support services.
- Formulates strategies, prepares procurement documents, and performs contract administration activities for major contractual agreements in support of Agency IRM requirements.
- Section FH.20.D.1.a., Division of Information Systems Management (FHE11), is deleted in its entirety and replaced by the following revised functional statement. The new section FH.20.D.1.a. reads as follows:

#### a. Division of Information Systems Management (FHE11)

- Directs the planning, design, and maintenance of information systems development standards and database administration policies and standards, including review of work products for compliance with standards, and the support of the Standards Board activities.
- Plans, directs, and coordinates the development and maintenance of a project management and software metrics program to monitor, evaluate, and improve the information systems development processes for HCFA. Directs the establishment and maintenance of the HCFA IRM systems inventory.
- Directs and coordinates the performance of post-implementation reviews for Agency systems to validate that all systems components are maintained concurrently with the operational systems.
- Formulates strategies and performs contract administration activities for major software contractual agreement across all phases of the information systems development life cycle.
- Formulates strategies and performs contract administration activities for major IRM contractual agreements.
- Section FH.20.D.6., Office of Computer Operations (FHE6), is deleted in its entirety and replaced by the following revised functional statement. The new section FH.20.D.6. reads as follows:

#### 6. Office of Computer Operations (FHE6)

- Directs the planning, budgeting, evaluation, procurement, operation, maintenance, control and security of all centralized automated data processing (ADP) and data communications (DC) equipment and services for HCFA's

Data Center (HDC) which includes: DC activities and equipment; centralized large-scale computers; nationally distributed departmental minicomputers; vendor supplied operating systems; utility software; OCO utilization of the Facilities Management Contract; and various intra/inter Agency agreements.

- Advises the bureau and HCFA executive staff on ADP and DC issues and concerns and represents HCFA in dealings with Federal and non-Federal agencies and organizations in these areas.
- Serves as the Agency's final technical authority for the approval of the purchase, lease, and maintenance of all ADP and DC equipment and systems.
- Manages the HDC and DC resource planning function to ensure the availability of resources for Agency approved projects.
- Develops HDC and DC plans and policies and provides program direction to HCFA staff and contractor support organizations to ensure that the Agency mission is efficiently and effectively met.
- Section FH.20.A.6.a, Technical Research and Planning Staff (FHE6-1), is deleted in its entirety and replaced by the following revised functional statement. The new Section FH.20.A.6.a. reads as follows:

#### a. Technical Research and Planning Staff (FHE6-1)

- Advises the Director, Office of Computer Operations, and executives throughout HCFA components of the impact on the HCFA Data Center (HDC) of new technology and Agency programmatic activities including new requirements and growth. Serves as principal focus and coordinator of HDC involvement for major system designs/redesigns resulting from new technology or significant legislation.
- Provides contract management expertise to major contracts and provides program direction to contract support organizations to ensure Agency mission is efficiently and effectively met. Monitors and analyzes lease, purchase, and maintenance agreements to ensure continuing efficient use of the HDC and data communications (DC) equipment. Develops and manages the HDC, minicomputer, and DC spending plans and estimates for equipment, software, maintenance, supplies, and support services. Prepares and controls contract performance evaluation procedures including the specification of evaluation periods, award fee criteria, evaluation categories and performance measurement controls.



- Serves as the Agency representative and inter- and intra-Department liaison for technology changes in the HDC and DC environment. Plans, organizes, and directs the acquisition of HDC and DC hardware and software within HCFA. Coordinates the procurement, installation, acceptance, and certification of newly acquired HDC and DC hardware and new/existing vendor maintenance agreements and service requests for installed hardware/software.

- Reviews HDC procurements and subsequent contract administration for compliance with Federal and Department standards and regulations, as well as for conformance with Agency plans.

- Develops and manages the HDC capacity planning activities. Monitors HDC and DC equipment utilization and capacity, making available the necessary planning reports for all levels of management.

- Performs technical assessments of new products, conducts independent evaluations, and acts as liaison for all beta testing.

- Conducts comprehensive impact analyses on HDC and DC network planning and design to ensure continuity in support of the total HCFA user community. Conducts studies to determine and define HDC and DC user requirements.

- Section FH.20.A.6.b., Contract Administration and Utilization Staff (FHE6-2) and Section FH.20.A.6.c., Division of Data Center Services (FHE61), are deleted in their entirety and replaced by the following new Section FH.20.A.6.b. which reads as follows:

**b. Division of Data Center Services (FHE61)**

- Directs the planning, budgeting, operation, maintenance control, and security for the HCFA Data Center (HDC) data processing resources and related support facilities (backup power, environmental systems, fire protection, etc.).

- Develops standards and policies for the efficient use of the HDC. Effects these policies and standards through software and hardware controls.

- Manages, evaluates, installs, and maintains HDC operating systems software, utility software products, and data base management systems.

- Plans, organizes, schedules, and controls activities required to maintain a contingency and disaster recovery plan for the HDC.

- Develops HDC operations policies, operational plans, and technical guidelines, and provides program

direction to contractor support organizations to ensure that the Agency mission is efficiently and effectively met.

- Develops and maintains the HCFA-wide accounting and chargeback system for HDC and DC users, determining and/or recommending the allocation of resources to the user community. Oversees the resource billing to non-HCFA users of the HDC.

Dated: June 10, 1992.

William Toby, Jr.,

Acting Administrator, Health Care Financing Administration.

[FR Doc. 92-14217 Filed 6-16-92; 8:45 am]

BILLING CODE 4120-01-M

## Health Resources and Services Administration

### Maternal and Child Health (MCH) Services Federal Set-Aside Program; MCH Training Program; University Affiliated Programs

**AGENCY:** Health Resources and Services Administration (HRSA), Public Health Service (PHS), HHS.

**ACTION:** Notice of availability of funds.

**SUMMARY:** The Maternal and Child Health Bureau (MCHB), HRSA, announces that fiscal year (FY) 1992 funds are available for grants for long term interdisciplinary graduate and postgraduate training of health professionals in University Affiliated Programs. These training projects will develop personnel for leadership in providing comprehensive health and related services to children with mental retardation, developmental disabilities, or other chronic handicapping conditions (especially those with neurodevelopmental/neuromuscular involvement), and their families. It is anticipated that a total of \$800,000 per year will be available for grants to support not more than two projects, one to be located in a Southeastern State.

Awards for long term training in University Affiliated Programs are made under the program authority of section 502(a) of the Social Security Act, the MCH Federal Set-Aside Program. The regulation implementing this program was published in the March 5, 1986, issue of the *Federal Register* at 51 FR 7726 (42 CFR part 51a).

The PHS is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS led national activity for setting priority areas. The MCH Federal Set-Aside Program will address the Healthy People 2000 objectives related to improving maternal, infant, child and

adolescent health and developing service systems for children at risk of chronic and disabling conditions. Potential applicants may obtain a copy of Healthy People 2000 (Full Report: Stock No. 017-001-00474-0) or Healthy People 2000 (Summary Report: Stock No. 017-001-00473-1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325 (telephone 202 783-3238).

**DUE DATES:** The deadline for receipt of applications is July 24, 1992. To receive consideration, all applications must be sent to the Chief, Grants Management Branch, Office of Program Support, MCHB, at the address below.

Applications shall be considered as meeting the deadline if they are either (1) received on or before the deadline date; or (2) postmarked on or before the deadline date and received in time for submission to the review committee. A legibly dated receipt from a commercial carrier or the U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks will not be accepted as proof of timely mailing. Grant applications postmarked after the deadline or sent to any other location will not be considered for funding and will be returned to the applicant.

The initial budget period for grantees will begin October 1, 1992, and will extend through June 30, 1993. The project period will run for two years and nine months, through June 30, 1995.

#### FOR FURTHER INFORMATION CONTACT:

John Gallicchio, Chief, Grants Management Branch, Office of Program Support, MCHB, Room 18-12, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone 301-443-1440, regarding business management, administrative, or fiscal issues related to the awarding of grants under this announcement. Applications should be submitted on PHS Form 6025-1, approved by OMB under control number 0915-0060.

Requests for technical or programmatic information, application forms and guidelines should be directed to: Elizabeth Brannon, M.S., R.D., Director, MCH Training, Maternal and Child Health Bureau, HRSA, room 18A-55, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone 301-443-2190.

#### SUPPLEMENTARY INFORMATION:

##### Program Background and Objectives

On April 16, 1991, our major notice of availability of FY 1992 funds under the MCH Federal Set-Aside Program was published (57 FR 13367). Planning for



this subcategory of training projects was not completed in time for publication in that notice.

Under Section 502(a) of the Social Security Act, as amended by the Omnibus Budget Reconciliation Act of 1989, 15 percent of funds appropriated annually for the MCH Block Grant that are not in excess of \$600 million, as well as 15 percent of any amount over \$600 million after section 502(b)(1)(A) funds have been withdrawn, are set aside at the Federal level for specified purposes, including long term training of professional personnel providing health and related care of children with special health care needs (CSHCN). University Affiliated Programs (UAPs), which train professional personnel for leadership roles in providing health and related services to mentally retarded children and children with multiple handicaps or other special health care needs, are a major recipient of the MCH long term training program.

Authority for UAPs was first enacted under title V of the Social Security Act in 1965, in response to recommendations of the President's Panel on Mental Retardation for development of interdisciplinary training programs in which specialists would be trained to work together and appreciate each other's role and functions. The current UAP network includes 22 MCH-funded programs throughout the United States at institutions of higher learning with accredited schools of medicine. These UAPs combine research and training with provision of comprehensive, clinical care at the highest levels to children with mental retardation, developmental disabilities, or other chronic handicapping conditions (especially those with neurodevelopmental/neuromuscular involvement) and their families.

The Congressional directive to expand the current UAP network is contained in the Report of the Senate Committee on HHS Appropriations (Senate Report 102-104) for fiscal year (FY) 1992, and is reiterated in the Appropriations Conference Report (House Report 102-282). The Senate committee report specifies that a portion of amounts set aside for projects under the MCH Federal Set-Aside Program for FY 1992 be used for establishment of new UAPs, one to be located in a Southeastern State.

#### Purpose

In compliance with Congressional intent, the MCHB will award grants to support and strengthen State MCH programs through establishment of not more than two new UAPs capable of delivering the same level of high quality,

interdisciplinary, graduate and postgraduate training to specialists providing comprehensive services to mentally retarded children as existing UAP programs. One award will be made in each of the following designated geographic areas:

1. Southeastern United States (U.S. Census Bureau South Atlantic and East South Central Divisions, encompassing the States of Delaware, Maryland, District of Columbia, Virginia, West Virginia, North Carolina, South Carolina, Georgia, Florida, Kentucky, Tennessee, Alabama, Mississippi).
2. All States of the United States except those listed in 1., above.

#### Availability of Funds

Approximately \$800,000 is available per year to support not more than two new projects in the designated geographic areas.

#### Eligible Applicants

Grants are made only to public or nonprofit private institutions of higher learning with accredited schools of medicine. Applications may be accepted from programs which have formed a consortium of institutions of higher learning. In such instances, however, the institution containing the medical and other health profession schools/departments must be the primary administrative, training, and clinical site for the project. Joint applications, co-project directors and similar multi-institutional arrangements will not be accepted.

#### Review Criteria

The Secretary has adopted the following general criteria for use, as pertinent, in reviewing and evaluating proposed MCH Federal Set Aside Program projects in all project categories, including long term training:

- The quality of the project plan or methodology.
- The need for the training.
- The cost-effectiveness of the proposed project relative to the number of persons proposed to be benefited, served or trained, considering, where relevant, any special circumstances associated with providing care or training in various areas.
- The extent to which the project will contribute to the advancement of MCH and/or CSHCN services.
- The extent to which rapid and effective use of grant funds will be made by the project.
- The effectiveness of procedures to collect the cost of care and service from third-party payment sources (including government agencies) which are authorized or under legal obligation to

make such payment for any service (including diagnostic, preventive and treatment services).

- The soundness of the project's management, considering the qualifications of the staff of the proposed project and the applicant's facilities and resources.
- The strength of the project's plans for evaluation.

#### Executive Order 12372

The MCH Block Grant program has been determined to be a program which is not subject to the provisions of Executive Order 12372 concerning intergovernmental review of Federal programs.

The OMB Catalog of Federal Domestic Assistance number is 93.110.

Dated: May 8, 1992.

John H. Kelso,

Acting Administrator.

[FR Doc. 92-14171 Filed 6-16-92; 8:45 am]

BILLING CODE 4165-15-M

#### Advisory Council; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of July 1992:

Name: Advisory Committee on Infant Mortality

Date and Time: July 9-10, 1992, 9 a.m.

Place: Columbia Room, North, Capitol Holiday Inn, 550 C Street, SW., Washington, DC 20024.

The meeting is open to the public.

Purpose: The Committee provides advice and recommendations to the Secretary on the following: Department programs which are directed at reducing infant mortality and improving the health status of pregnant women and infants; how best to coordinate the variety of Federal, State, local and private programs and efforts that are designed to deal with the health and social problems impacting on infant mortality; and the implementation of the Healthy Start Initiative and other recommendations of the Domestic Policy Council, and infant mortality objectives from Healthy People: 2000: National Health Promotion and Disease Prevention Objectives.

Agenda: During the meeting of the Committee, new members will be introduced. Topics that will be discussed include: Infant Mortality Review; Progress Review; Maternal and Infant Health Year 2000 Objectives; and Access to Care Initiatives. There will also be a report on the Healthy Start Initiative.

Anyone requiring information regarding the Committee should contact Mr. Ronald Carlson, Executive Secretary, Advisory Committee on Infant Mortality, Health Resources and



Services Administration, room 14-33, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-2460.

Persons interested in attending any portion of the meeting should contact Ms. Kyungeun Carol Han, Public Health Analyst, Office of the Planning, Evaluation and Legislation, Health Resources and Services Administration, Telephone (301) 443-1900.

Agenda Items are subject to change as priorities dictate.

Dated: June 11, 1992.

Jackie E. Baum,

*Advisory Committee Management Officer, HRSA.*

[FR Doc. 92-14172 Filed 6-16-92; 8:45 am]

BILLING CODE 4160-15-M

## Public Health Service

### National Center for Health Statistics; The ICD-9-CM Coordination and Maintenance Committee; Meeting

**AGENCY:** National Center for Health Statistics, DHHS.

**ACTION:** Notice of meeting.

**SUMMARY:** The ICD-9-CM Coordination and Maintenance Committee (C&M) will be holding its second meeting of the year on August 4, 1992. The C&M is a public forum for the presentation of proposed modifications to the International Classification of Diseases, ninth-revision, clinical modification.

**DATES:** The meeting will be held on August 4, 1992 from 9 a.m.-5 p.m.

**ADDRESSES:** The Hubert H. Humphrey building, rm. 703A, 200 Independence Ave. Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Amy Blum 301-436-4218.

**SUPPLEMENTAL INFORMATION:** Tentative agenda.

Diabetes Mellitus, uncontrolled  
Deep versus superficial veins  
Reflex Sympathetic Dystrophy  
Addenda

Gastroesophageal reflux

Cervical metaplasia

Human papilloma virus

Sue Meads, R.R.A.,

*Co-chair ICD-9-CM Coordination and Maintenance Committee.*

[FR Doc. 92-14181 Filed 6-16-92; 8:45 am]

BILLING CODE 4160-18-M

### Alcohol, Drug Abuse, and Mental Health Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HM, Alcohol, Drug Abuse, and Mental Administration (ADAMHA), of the statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (39 FR 1654, January 11, 1974, as amended most recently by 56 FR 51227, October 10, 1991) is amended to reflect changes within the National Institute on Drug Abuse (NIDA), ADAMHA. These changes involve deleting a function involving international program activities within the Office of Science Policy, Education, and Legislation.

Section HM-B, Organization and Functions, Alcohol, Drug Abuse, and Mental Health Administration (HM) is amended as follows:

Under the heading Office of Science Policy, Education, and Legislation (HMH14), following the semicolon after item (3), delete all remaining words and add the following words: (4) prepares briefing materials and testimony for congressional hearings, and serves as liaison with Congress, the White House, and other significant Federal and governmental agencies; (5) prepares reports, develops responses, and provides information on legislative efforts, responds to congressional inquiries, and analyzes legislative proposals for the Director; (6) advises the Director on national drug abuse policy issues; (7) conducts relevant public affairs activities, writes scientific articles, deals with the press, media and related efforts, and collaborates with a variety of agencies both public and private to further knowledge and awareness of the Institute, its programs and findings; and (8) provides liaison with professional groups and private organizations, coordinates technical assistance to other governmental agencies, and coordinates analytic studies requested by other governmental agencies.

Dated: June 9, 1992.

Elaine M. Johnson,

*Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration.*

[FR Doc. 92-14162 Filed 6-16-92; 8:45 am]

BILLING CODE 4160-01-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of Administration

[Docket No. N-92-3453]

### Submission of Proposed Information Collection to OMB

**AGENCY:** Office of Administration, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708-0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

**SUPPLEMENTARY INFORMATION:** The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, rein statement, or revision of an information collection requirement; and (9) the



names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

**Authority:** Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: June 10, 1992.

Kay Weaver,

Acting Director, Information Resources,  
Management Policy and Management  
Division.

**Proposal:** Public and Indian Housing:  
Contract Administration.

**Office:** Public and Indian Housing.

**Description of the Need for the Information and Its Proposed Use:** This information is needed because standard construction practice require public housing agencies (PHAs) to retain certain records. These records are submitted with documents used in

conjunction with the award of construction contracts and the development or modernization of public housing projects.

**Form Number:** HUD-5372 and HUD-51000.

**Respondents:** State or Local Governments and Non-Profit Institutions.

**Frequency of Submission:** On Occasion.

**Reporting Burden:**

	Number of respondents	×	Frequency of response	×	Hour per response	=	Burden hours
Bidding Control Record.....	1,462		1		.50		731
Register of Change Orders and Time Extensions.....	1,200		1		.25		300
Disputes and Claims Records/Findings for Liquidated Damages/PHA Contract Report.....	863		1		4.25		3,668
HUD-5372, Construction Progress Schedule.....	1,200		1		1		1,200
HUD-51000, Schedule of Amounts for Contract Payments.....	1,124		1		1		1,124

**Total Estimated Burden Hours:** 7,023.

**Status:** Reinstatement.

**Contact:** William Thorson, HUD (202)  
708-4703, Jennifer Main, OMB, (202) 395-  
6880.

Dated: June 10, 1992.

[FR Doc. 92-14147 Filed 6-16-92; 8:45 am]

BILLING CODE 4210-01-M

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

**Applicant:** Cincinnati Zoo, Cincinnati,  
OH—PRT-768264.

The applicant requests a permit to import one pair of captive-bred cheetahs (*Acinonyx jubatus*) from the DeWildt Cheetah Research and Breeding Centre, Pretoria, South Africa, for purposes of educational display, breeding and scientific research.

**Applicant:** Albert E. Landau, Ft.  
Lauderdale, FL 33326—PRT-768278.

The applicant requests a permit to import a sport-hunted trophy of a male bontebok (*Damaliscus dorcas dorcas*) from the captive herd of H. v Z. Kock, Meriman, South Africa, for the purpose of enhancement of survival of the species.

**Applicant:** Duke University Primate  
Center, Durham, NC—PRT-679043.

The applicant requests renewal of their existing permit to sell in interstate

and foreign commerce and export dead specimens of endangered and threatened species for scientific research; and requests amendment of the permit to include specimens in the families Lorisidae and Tarsiidae.

**Applicant:** Norton Colvin, Jr.,  
Brownsville, TX—PRT-767269.

The applicant requests a permit to import a sport-hunted trophy of a male bontebok (*Damaliscus dorcas dorcas*) from the captive herd of F.W.M. Bowker, Jr., Grahamstown, South Africa, for the purpose of enhancement of survival of the species.

**Applicant:** Amos Deinard, Yale  
University, New Haven, CT—PRT-  
767825.

The applicant requests a permit to import blood and tissue samples taken from captive chimpanzees (*Pan troglodytes*) and pygmy chimpanzees (*Pan paniscus*) in Canada, Spain, Germany, Gabon, Equatorial Guinea and Zaire for scientific research on the evolutionary genetics of the chimpanzees. Samples will be taken in conjunction with normal veterinary routines.

**Applicant:** Los Angeles Zoo, Los  
Angeles, CA—PRT-768247.

The applicant requests a permit to import two captive-born female yellow-footed rock wallabies (*Petrogale xanthopus*) from Adelaide Zoo, Adelaide, Australia, for breeding and display.

**Applicant:** Circus Tihany, Sarasota, FL  
34230—PRT-768272.

The applicant requests a permit to export and reimport one pair of tigers (*Panthera tigris*), (male is white with black stripes), one pair of leopards (*Panthera pardus*) and one black

leopard to and from Mexico for enhancement of propagation of the species through education and exhibition. Applicant anticipates multiple shipments for this purpose. All the animals were captive-bred in the United States.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to, or by appointment during normal business hours (7:45-4:15) in the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203. Phone: (703/358-2104); FAX: (703/358-2281).

Dated: June 12, 1992.

Margaret Tieger,

Acting Chief, Branch of Permits, Office of  
Management Authority.

[FR Doc. 92-14159 Filed 6-16-92; 8:45 am]

BILLING CODE 4310-55-M

### Trinity River Basin Fish and Wildlife Restoration Program; Trinity River, Northwestern California

**AGENCY:** Department of the Interior.

**ACTION:** Notice of intent to prepare an  
Environmental Assessment/  
Environmental Impact Report.



**SUMMARY:** Pursuant to section 102 of the National Environmental Policy Act of 1969, the Fish and Wildlife Service intends to prepare and Environmental Assessment on a proposed project to construct anadromous fish habitat improvement measures in a 40-mile section of the Trinity River. The Environmental Assessment will be tiered to a Programmatic Environmental Impact Statement (INT/FES 83-53) completed in 1983. Modification of the river channel is one of several essential components of a broad program to restore the anadromous fishery of the Trinity River Basin. The Environmental Assessment (EA) will be combined with an Environmental Impact Report (EIR) to achieve concurrent compliance with the California Environmental Quality Act (CEQA). Trinity County will be lead agency for the CEQA process.

**FOR FURTHER INFORMATION CONTACT:** Mr. Charles B. Lane, Project Leader, U.S. Fish and Wildlife Service, Trinity River Fishery Resource Office, P.O. Box 1450, Weaverville, CA 96093-1450; telephone 916-823-3931.

**SUPPLEMENTARY INFORMATION:** Over the years, particularly since 1963 with the completion of the Trinity Division of the Central Valley Project, the mainstem Trinity River below Lewiston Dam has experienced drastic changes in its shape and ability to provide habitat for salmon and steelhead. The natural spawning, rearing, pool and food-producing areas have progressively become covered by sand and the river channel encroached with riparian vegetation. Other factors contributing to loss of habitat are large increases in sediment yields from tributary watersheds resulting from timber harvests and other landscape disturbances. Habitat reduction has contributed to severe declines in fish populations.

The Trinity River Restoration Program, currently in progress, was authorized in 1984 under Public Law 98-541. That Act provided the authorization, funding and structure to implement an 11 action item management plan developed by a multi-agency Task Force in 1982. The 10-year program was initiated in 1986 and is being implemented by the Secretary of the Interior with the assistance of a 14-member Task Force. A field office staffed jointly by the U.S. Bureau of Reclamation (USBR) and the U.S. Fish and Wildlife Service (FWS) is located in Weaverville, California. The program is scheduled to end in 1995.

A 12-year flow evaluation program, authorized by a 1981 Secretary of the Interior directive was initiated in 1984 and is being carried out by FWS

concurrently with the restoration program. Objectives of this program include developing recommendations for optimum fishery flows and evaluation of channel restoration measures as to the quality and quantity of habitat provided.

Provision of adequate flows, reduction of sediment loading from tributaries, and modification of the mainstem channel have been identified as three of the most critical measures needed to achieve restoration success. This EA/EIR will identify and evaluate impacts attributable to the mainstem channel modification component of the restoration program.

Implementation of pilot projects including gravel placement, pool dredging, and construction of side-channels and bank feathering sites have provided information sufficient to prepare an overall plan for the approximately 40-miles of river from Lewiston Dam to the North Fork of the Trinity River. The EA/EIR will include the no action alternative of not proceeding further with restoring the mainstem and the proposed alternative of completing all of the potential projects that meet a rigid set of site specific criteria. Other alternatives discussed will be an intermediate scenario between no further action and full implementation as well as use of reservoir releases alone to achieve the desired fish habitat benefits.

The draft EA/EIR is expected to be available for public review in July or August 1992.

Scoping for the mainstem plan has been ongoing since 1986 when the field office was opened. The process has involved many technical meetings, field reviews, public meetings, specific scoping meetings held in November 1991 and circulation of a preliminary draft document for review and comment in 1992. Trinity County will hold a CEQA public scoping meeting in June 1992.

Dated: June 5, 1992.

**Marvin L. Plenert,**

*Regional Director, U.S. Fish and Wildlife Service.*

[FR Doc. 92-14177 Filed 6-16-92; 8:45 am]

BILLING CODE 4310-55-M

## Bureau of Land Management

[ID-020-5101-09-XDBJ]

### Notice of Availability

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Availability of the Southwest Intertie Project Draft

Environmental Impact Statement and Draft Land Use Plan Amendment.

**SUMMARY:** Idaho Power Company, Boise, Idaho has made application for a 200 foot wide right-of-way (R/W) in which they propose to construct, operate and maintain the 500Kv Southwest Intertie Project (SWIP) power transmission line. The proposed line would run from their Midpoint substation near Shoshone, Idaho to a new proposed substation in the Dry Lake Valley area northeast of Las Vegas, Nevada. The purpose of this line would be for the seasonal interchange of electrical power between the northwest and southwest part of the United States. The application also includes a 200 foot wide R/W for a 500Kv power transmission line that would run from a new substation near Ely, Nevada to the Intermountain Power Plant near Delta, Utah. This power line would be constructed, operated, and maintained by the Los Angeles Department of Water and Power and would be part of the Utah-Nevado (UNTP) Power Project.

**DATES:** Six formal public meetings to receive comments on the Draft Environmental Impact Statement and Draft Plan Amendment (DEIS/DPA) will be held on the following dates at the locations specified below. The meetings will start at 7 p.m. and run through 9 p.m.

August 3, 1992—Weston Plaza, 1350 Blue Lake Blvd. N., Twin Falls, Idaho.

August 4, 1992—Wells High School, Wells Nevada.

August 5, 1992—Bristlecone Convention Center, 150 6th Street, Ely, Nevada.

August 6, 1992—City Council Chambers, 76 N. 200 West, Delta, Utah.

August 19, 1992—Soil Conservation Service Office, Caliente, Nevada.

August 20, 1992—Las Vegas BLM Office, 4765 Vegas Drive, Las Vegas, Nevada.

**ADDRESSES:** Comments regarding the DEIS/DPA may be made orally at these meetings or they can be submitted in writing to the Burley District Manager, Bureau of Land Management, Route 3, Box 1, Burley, Idaho, 83318. All comments must be received by BLM or postmarked by September 18, 1992.

**FOR FURTHER INFORMATION CONTACT:** Karl Simonson, Southwest Intertie Project Manager, Bureau of Land Management, Burley District Office. Phone: (208) 678-5514.

**SUPPLEMENTARY INFORMATION:** A Draft Environmental Impact Statement/Draft Plan Amendment (DEIS/DPA) has been prepared which identifies resource values and analyzes the environmental impacts to these resources that would



be expected from the proposed action. The DEIS/DPA identifies the environmentally preferred, the agency preferred, and the utility company's preferred routing alternative.

The Bureau of Land Management is the lead Federal Agency in the preparation of the SWIP DEIS/DPA. Cooperating agencies in the EIS process include the Bureau of Reclamation, U. S. Forest Service, National Park Service, and the Bureau of Indian Affairs.

Copies of the DEIS/DPA are being sent to all individuals and agencies that have participated in the public scoping process or have otherwise asked to be included on the SWIP mailing list. Additional copies are available from the Burley District of the Bureau of Land Management, Route 3, Box 1, Burley, Idaho, 83318. The Burley District telephone number is (208) 678-5514. A copy of the DEIS/DPA is also available for public review at the Boise and Shoshone District offices in Idaho, the Elko, Ely, and Las Vegas District offices in Nevada and the Richfield District Office in Utah. A copy would also be available for public review at the various Bureau of Land Management State Offices in Boise, Idaho, Reno, Nevada, and Salt Lake City, Utah.

Delmar D. Vail,

State Director, Bureau of Land Management.

[FR Doc. 92-14152 Filed 6-16-92; 8:45 am]

BILLING CODE 4310-GG-M

[ES-960-9800-12; ES-045419, Group 93, Arkansas]

#### **Filing of Plat of the Corrective Dependent Resurvey, Retracement Subdivision and Survey**

The plat, in fourteen sheets, of the corrective dependent resurvey of a portion of the east boundary and subdivisional lines, the retracement of portions of the exterior boundaries and subdivisional lines, the subdivision of certain sections, and the survey of certain lots and parcels in Township 15 North, Range 12 West, Fifth Principal Meridian, Arkansas, will be officially filed in Eastern States, Springfield, Virginia at 7:30 a.m., on July 31, 1992.

The survey was made upon request submitted by the United States Forest Service.

All inquiries or protests concerning the technical aspects of the survey must be sent to the Deputy State Director for Cadastral Survey, Eastern States Office, Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153, prior to 7:30 a.m., July 31, 1992.

Copies of the plat will be made available upon request and prepayment of the reproduction fee of \$1.75 per copy.

Dated: June 10, 1992.

Lonna O'Neal,

Acting State Director.

[FR Doc. 92-13122 Filed 6-16-92; 8:45 am]

BILLING CODE 4310-GJ-M

#### **Bureau of Reclamation**

##### **Middle Green River Basin Study, National Irrigation Water Quality Program (NIWQP), Northeastern UT**

**AGENCIES:** Bureau of Reclamation (Interior), U.S. Fish and Wildlife Service (Interior), U.S. Geological Survey (Interior).

**ACTION:** Notice of intent and scoping.

**SUMMARY:** Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, as amended, the Bureau of Reclamation (Reclamation), as lead agency, proposes to conduct a remediation planning study and prepare a draft environmental impact statement (EIS) on remediation alternatives to correct elevated selenium problems related to irrigation drainage in the Stewart Lake Waterfowl Management Area (WMA), lower Ashley Creek, and their mixing zones in the Green River near Vernal, Utah. The purpose of the remediation planning study is to determine the most implementable alternative(s) to correct the irrigation drainage related selenium problems resulting from the Vernal and Jensen Units of the Central Utah Project. Previous NIWQP studies have indicated that selenium in water, bottom sediments, and biota has caused unacceptable hazards to fish, wildlife, and human health in Stewart Lake WMA, Marsh 4720, and lower Ashley Creek. A Public scoping process will be used to elicit information for use in determining the scope of the environmental impacts and issues related to the proposal and to determine alternative methods to accomplish the goals of the project. The results of the scoping process will help the involved agencies determine the scope and extent of the impact analysis. The scoping process may consist of public meetings, private consultation, written comments or combinations of these. A subsequent notice will be published in the **Federal Register** at least 30 days prior to the first scoping meeting.

**FOR FURTHER INFORMATION CONTACT:** Mr. Stephen Noyes, Study Manager, Bureau of Reclamation (Code: PPO-710), P.O. Box 51338, Provo UT 84605-1338; telephone: (801) 379-1000.

**SUPPLEMENTARY INFORMATION:** During the last few years, there has been increasing concern in the Western United States about the quality of irrigation drainage from surface and subsurface water and its potential effects on human health and on fish and wildlife. The U.S. Congress shared those concerns, and in 1985, the Department of the Interior (DOI) began studies under the five-phase NIWQP. The purpose of the studies was to identify toxic constituents in irrigation return flows from DOI projects and determine if concentration levels of these constituents were causing impacts to human health, fish, and wildlife. Phases I through III of the Middle Green River Basin Study have been completed, and Phase IV, Remediation Planning, has been initiated. These earlier studies have confirmed that samples of water, sediment, and biota from Stewart Lake WMA, lower Ashley Creek, Marsh 4720, and their mixing zones in the Green River contain concentrations of selenium that exceed the Federal and State criteria for, and resulted in, adverse impacts to human health, fish, and wildlife.

The present Phase IV study started in late 1990. A draft plan of study including a public involvement plan has been developed, and informal meetings with numerous Federal, State, and local agencies have been conducted. The Phase IV study on the Middle Green River Basin is being managed by a Department of the Interior core team under the direction of the Bureau of Reclamation. Other members include the U.S. Geological Survey and the U.S. Fish & Wildlife Service, with various other Federal, State, and local agencies serving as advisors.

The goals and objectives of the Phase IV study are to:

- Reduce selenium in water and bottom sediments in the study area which has caused unacceptable hazards to fish and wildlife.
- Minimize the ecological hazards and satisfy requirements of the Migratory Bird Treaty Act and the Endangered Species Act.
- Minimize public health risks resulting from consumption of fish and wildlife with elevated selenium levels in the study area.

• Select, through a public involvement process, a plan to correct Department of the Interior irrigation drainage-related selenium problems in Stewart Lake WMA and Ashley Creek and their mixing zones in the Green River.

A preliminary list of potential remediation options has been developed for presentation to the public during the



scoping process. The general types of options identified to date include institutional changes, collection and treatment, disposal, dilution, source control, and a no action alternative (required under NEPA).

A preferred plan including NEPA compliance will be available for review and comment in 1994.

Dated: June 10, 1992.

Joe D. Hall,

Deputy Commissioner.

[FR Doc. 92-14056 Filed 6-16-92; 8:45 am]

BILLING CODE 4310-09-M

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-556 (Preliminary)]

### Dynamic Random Access Memories of One Megabit and Above From the Republic of Korea

#### Determination

On the basis of the record<sup>1</sup> developed in the subject investigation, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from the Republic of Korea (Korea) of dynamic random access memories (DRAMs) of one megabit (Meg) and above,<sup>2</sup> provided for in subheadings 8473.30.40 and 8542.11.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

<sup>1</sup> The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

<sup>2</sup> For purposes of Commerce's investigation, DRAMs include all 1 Meg and above dynamic random access memory semiconductors, whether assembled or unassembled. Assembled DRAMs include all package types. Unassembled DRAMs include processed wafers, uncut dice, and cut dice. Processed wafers produced in Korea but packaged in a third country are included in the scope; however, wafers produced in a third country and assembled or packaged in Korea are not included in the scope. The scope also includes memory modules, such as single in-line processing modules (SIPs) and single in-line memory modules (SIMMs), that contain 1 Meg or above dynamic random access memory semiconductors that are assembled together and function as memory. Modules that contain other parts that are needed to support the function of memory are considered to be covered memory modules. Only those modules containing additional items which alter the function of the module to something other than memory are not covered modules. The scope also includes video random access memories (VRAMs), as well as any future packaging and assembling of DRAMs.

## Background

On April 22, 1992, a petition was filed with the Commission and the Department of Commerce by Micron Technology, Inc., Boise, ID, alleging that an industry in the United States is materially injured and is threatened with material injury by reason of LTFV imports of DRAMs of one Meg and above from Korea. Accordingly, effective April 22, 1992, the Commission instituted antidumping investigation No. 731-TA-556 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of April 29, 1992 (57 FR 18163). The conference was held in Washington, DC, on May 13, 1992, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on June 8, 1992. The views of the Commission are contained in USITC Publication 2519 (June 1992), entitled "Dynamic Random Access Memories of One Megabit and Above from the Republic of Korea: Determination of the Commission in Investigation No. 731-TA-556 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: June 9, 1992.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 92-14203 Filed 6-16-92; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 332-325]

### The Economic Effects of Significant U.S. Import Restraints

**AGENCY:** United States International Trade Commission.

**ACTION:** Institution of investigation.

**SUMMARY:** Following receipt on May 15, 1992 of a request from the U.S. Trade Representative (USTR), the Commission instituted investigation No. 332-325 on the economic effects of significant U.S. import restraints, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)). As requested, the investigation will assess the economic effects of significant U.S. import restraints on U.S. consumers, on the activities of U.S.

firms, on the income and employment of U.S. workers, and on the net economic welfare of the United States. The investigation will not include import restraints resulting from final antidumping or countervailing duty investigations, section 337 or 406 investigations, or section 301 actions.

The Commission will provide an initial report on this investigation by November 15, 1993. Subsequent reports will be provided every two years. Copies of Commission reports on this subject will be made available to the public at the same time they are provided to the USTR.

**EFFECTIVE DATE:** June 5, 1992

## Public Hearing

A public hearing in connection with this investigation will be held in the Commission Hearing Room, 500 E Street, SW., Washington, DC 20436, beginning at 9:30 a.m. on October 14, 1992. All persons shall have the right to appear by counsel or in person, to present information, and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436, no later than noon, October 2, 1992. The deadline for filing prehearing briefs (original and 14 copies) is October 2, 1992. Dates for public hearings in connection with future phases of this investigation will be announced later.

## Written Submissions

Interested persons are invited to submit written statements concerning the matters to be addressed in the report. Commercial or financial information that a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. If confidential treatment is desired, submission of separate confidential and public versions is required. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available in the Office of the Secretary to the Commission for inspection by interested person.

**FOR FURTHER INFORMATION CONTACT:** Joseph Francois or Joseph Flynn (202-205-3223), Office of Economics, U.S. International Trade Commission.

Hearing impaired persons are advised that information on this investigation can be obtained by contacting the



Commission's TDD terminal on 202-205-1810. Issued: June 10, 1992.Q02

By order of the Commission.

Kenneth R. Mason,  
Secretary.

[FR Doc. 92-14201 Filed 6-16-92; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 303-TA-22 (Final)]

**Extruded Rubber Thread From Malaysia**

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice of discontinuation of investigation.

**SUMMARY:** On August 29, 1991, the North American Rubber Thread Company filed a petition with the Commission and the U.S. Department of Commerce seeking the imposition of countervailing duties on imports of extrude rubber thread from Malaysia. Although Malaysia is not a "country under the Agreement" within the meaning of section 701(b) of the Tariff Act of 1930 (the Act), extruded rubber thread from Malaysia was nondutiable under the Generalized System of Preferences (GSP), and Malaysia is a contracting party of the General Agreement on Tariffs and Trade. Therefore, the U.S. International Trade Commission instituted preliminary countervailing duty investigation No. 303-TA-22 (Preliminary) [56 FR 43938, September 5, 1991] under section 303(a) of the Act and determined that there is a reasonable indication that an industry in the United States is materially injured by reason of the subject imports. Following an affirmative preliminary determination by Commerce, the U.S. International Trade Commission instituted final countervailing duty investigation No. 303-TA-22 (Final) [57 FR 4479, February 5, 1992].

On March 12, 1992, the President of the United States determined that it was appropriate to withdraw the duty-free treatment afforded under the GSP to imports from Malaysia of extruded rubber thread [57 FR 9041, March 16, 1992]. Therefore, Malaysia is no longer entitled to an injury determination under section 303 of the Act with regard to the countervailing duty investigation that has been initiated by the Department of Commerce on extruded rubber thread. Accordingly, the Commission gives notice that its countervailing duty investigation concerning extruded rubber thread from Malaysia (investigation No. 303-TA-22 (Final)) is discontinued.

**EFFECTIVE DATE:** June 9, 1992.

**FOR FURTHER INFORMATION CONTACT:** Debra Baker (202-205-3180), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

**Authority:** This action is taken under authority of the Tariff Act of 1930, section 303 and title VII.

Issued: June 10, 1992.

By order of the Commission.

Kenneth R. Mason,  
Secretary.

[FR Doc. 92-14200 Filed 6-16-92; 8:45am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-572 (Preliminary)]

**Certain Special Quality Carbon and Alloy Hot-Rolled Steel Bars and Rods and Semifinished Products Thereof From Brazil**

**AGENCY:** United States International Trade Commission.

**ACTION:** Institution and scheduling of preliminary antidumping investigation.

**SUMMARY:** The Commission hereby gives notice of the institution of preliminary antidumping investigation No. 731-TA-572 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil of certain special quality carbon and alloy hot-rolled steel bars and rods, and semifinished products thereof<sup>1</sup> covered by

<sup>1</sup> For purposes of this investigation, the subject imports consist of certain special quality carbon (nonalloy) steel and alloy steel (other than stainless steel, high-speed steel, silico-manganese steel, and tool steel) semifinished products and hot-rolled bars and rods. The subject imports are semifinished and hot-rolled products that may have been subjected to direct hardening, carburizing, induction hardening, and nitriding, and exhibit creep resistance; and are used in applications requiring critical levels of hardness and/or hardenability, strength, toughness, fatigue resistance, high-temperature creep and fracture resistance, wear resistance, machinability, and formability. The imports subject to investigation include products that are produced from the following grades of steel: AISI carbon series 1000 (excluding grades 1000 through 1044 designated with the prefix M), 1100, 1200, and 1500; AISI certain alloy series 1300, 4000, 4100, 4300, 4600,

subheadings/statistical reporting numbers 7207.11.00, 7207.12.0010, 7207.19.0030, 7207.20.0025, 7207.20.0075, 7214.30.00, 7214.40.00, 7214.50.00, 7214.60.00, 7224.10.0075, 7224.90.0045, 7224.90.0065, and 7228.30.80 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value.

As provided in section 733(a) of the Tariff Act, the Commission must complete its preliminary antidumping investigation in 45 days, or in this case by July 24, 1992.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

**EFFECTIVE DATE:** June 9, 1992.

**FOR FURTHER INFORMATION CONTACT:** Diane J. Mazur (202-205-3184), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

**SUPPLEMENTARY INFORMATION:**

**Background**

This investigation is being instituted in response to a petition filed on June 9, 1992, by Republic Engineered Steels, Inc., Massillon, OH, and The Timken Company, Canton, OH.

**Participation in the Investigation and Public Service List.**

Persons (other than petitioners) wishing to participate in this investigation as parties must file an

4700, 4800, 5000, 5100, 5200, 6100, 8100, 8600, 8700, 8800, 9200, 9300 and 9400; and the grades for both carbon and certain alloy include Boron and H-steels. The subject imports of hot-rolled bars and rods are in cut lengths and various shapes and sizes. The subject imports of semifinished products include cast certain alloy steel ingots and strand castings, and semi-wrought ingots and strand castings; and nonalloy and certain alloy steel rolled or forged blooms, billets, and slabs for forging, if destined for use in the subject hot-rolled bars and rods. Excluded from the scope of the investigation are imports of semifinished products or hot-rolled bars and rods which contain by weight 0.03 percent or more of lead or 0.05 percent or more of bismuth; nonalloy steel ingots or other primary forms; semifinished or hot-rolled products of merchant quality steels (AISI grades M 1000 through M 1044); hot-rolled bars and rods in coiled form; forged bars; and reinforcing bars and rods.



entry of appearance with the Secretary to the Commission as provided in § 201.11 and 207.10 of the Commission's rules, not later than seven (7) days after publication of this notice in the Federal Register. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation upon the expiration of the period for filing entries of appearance.

**Limited Disclosure of Business Proprietary Information (BPI) under an Administrative Protective Order (APO) and BPI Service List**

Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this preliminary investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than seven (7) days after the publication of this notice in the Federal Register. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

**Conference.**

The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on June 30, 1992, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Diane Mazur (202-205-3184) not later than June 25, 1992, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

**Written Submissions**

As provided in § 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before July 8, 1992, a written brief containing information and arguments pertinent to the subject matter of this investigation. Parties may file written testimony in connection with their presentation at the conference no later than three (3) days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of § 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with § 201.16(c) and 207.3 of the rules, each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

**Authority:** This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules.

Issued: June 12, 1992.

By order of the Commission.

Kenneth R. Mason,  
Secretary.

[FR Doc. 92-14205 Filed 6-16-92; 8:45am]

BILLING CODE 7020-02-M

[Investigations Nos. 731-TA-539-A through 539-F (Final)]

**Uranium From Kazakhstan, Kyrgystan, Russia, Tajikistan, Ukraine, and Uzbekistan**

**AGENCY:** United States International Trade Commission.

**ACTION:** Institution and scheduling of final antidumping investigations.

**SUMMARY:** The Commission hereby gives notice of the institution of final antidumping investigations Nos. 731-TA-539-A through 539-F (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Kazakhstan, Kyrgystan, Russia, Tajikistan, Ukraine, and Uzbekistan of uranium,<sup>1</sup> provided for in subheadings 2612.10.00, 2844.10.10, 2844.10.20, 2844.10.50, and 2844.20.00 of the Harmonized Tariff Schedule of the United States.

For further information concerning the conduct of these investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part

<sup>1</sup> The product covered by these investigations is uranium from Kazakhstan, Kyrgystan, Russia, Tajikistan, Ukraine, and Uzbekistan. This includes natural uranium in the forms of uranium ores and concentrates; natural uranium metal and natural uranium compounds; alloys, dispersions (including cermets), ceramic products and mixtures containing natural uranium or natural uranium compounds; uranium enriched in U<sup>235</sup> and its compounds; alloys, dispersions (including cermets), ceramic products, and mixtures containing uranium enriched in U<sup>235</sup> or compounds of uranium enriched in U<sup>235</sup>.

201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

**EFFECTIVE DATE:** June 2, 1992.

**FOR FURTHER INFORMATION CONTACT:**

Tedford Briggs (202-205-3181), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

**SUPPLEMENTARY INFORMATION:** These investigations are being instituted as a result of affirmative preliminary determinations by the Department of Commerce that imports of uranium from Kazakhstan, Kyrgystan, Russia, Tajikistan, Ukraine, and Uzbekistan are being sold in the United States at less than fair value within the meaning of section 733 of the act (19 U.S.C. 1673b). The investigations were requested in a petition filed on November 8, 1991, on behalf of the Ad Hoc Committee of Domestic Uranium Producers and the Oil, Chemical and Atomic Workers International Union. The names and addresses of the petitioners are as follows: Ferret Exploration Company, Inc., Denver, CO; First Holding Company, Denver, CO; Geomex Minerals, Inc., Denver, CO; Homestake Mining Company, San Francisco, CA; IMC Fertilizer, Inc., Northbrook, IL; Malapai Resources Company, Houston, TX; Pathfinder Mines Corporation, Bethesda, MD; Power Resources, Inc., Denver, CO; Rio Algom Mining Corporation, Oklahoma City, OK; Solution Mining Corporation, Laramie, WY; Total Minerals Corporation, Houston, TX; Umetco Minerals Corporation, Danbury, CT; Uranium Resources, Inc., Dallas, TX; and Oil, Chemical and Atomic Workers International Union, Denver, CO.

**Participation in the Investigations and Public Service List**

Persons wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, not later than twenty-one (21) days after publication of this notice in the Federal Register. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these



investigations upon the expiration of the period for filing entries of appearance.

**Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List.**

Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these final investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made not later than twenty-one (21) days after the publication of this notice in the Federal Register. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

**Staff Report**

The prehearing staff report in these investigations will be placed in the nonpublic record on July 31, 1992, and a public version will be issued thereafter, pursuant to § 207.21 of the Commission's rules.

**Hearing**

The Commission will hold a hearing in connection with these investigations beginning at 9:30 a.m. on August 13, 1992, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before July 29, 1992. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on August 3, 1992, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by § 201.6(b)(2), 201.13(f), and 207.23(b) of the Commission's rules.

**Written Submissions**

Each party is encouraged to submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.22 of the Commission's rules; the deadline for filing is August 7, 1992. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.23(b) of the Commission's rules, and posthearing briefs, which must conform with the provision of § 207.24 of the Commission's rules. The deadline for filing posthearing briefs is August 21, 1992; witness testimony must be filed no

later than three (3) days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before August 21, 1992. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

**Authority:** These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules.

Issued: June 12, 1992.

By order of the Commission.

Kenneth R. Mason,  
Secretary.

[FR Doc. 92-14204 Filed 6-16-92; 8:45 am]

BILLING CODE 7020-02-M

**[Investigation No. 337-TA-331]**

**Certain Microcomputer Memory Controllers, Components Thereof and Products Containing Same; Designation of Additional Commission Investigative Attorney**

Notice is hereby given that, as of this date, Thomas L. Jarvis, Esq. and Alesia M. Woodworth, Esq. of the Office of Unfair Import Investigations are designated as the Commission investigative attorneys in the above-cited investigation instead of Thomas L. Jarvis, Esq.

The Secretary is requested to publish this notice in the **Federal Register**.

Dated: June 9, 1992.

Lynn I. Levine,  
Director, Office of Unfair Import Investigations, 500 E Street, SW., Washington, DC 20436.

[FR Doc. 92-14202 Filed 6-16-92; 8:45 am]

BILLING CODE 7020-02-M

**INTERSTATE COMMERCE COMMISSION**

[Docket No. AB-55 (Sub-No. 414X)]

**CSX Transportation, Inc., Abandonment Exemption; Bell County, KY**

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of exemption.

**SUMMARY:** The Commission exempts from the prior approval requirements of 49 U.S.C. 10903, *et seq.*, the abandonment by CSX Transportation, Inc., of 1.34 miles of its Pine Mountain Railroad Branch between milepost PR-199.06 near Dunley and milepost PR-200.09 near Dade, including the remainder of the Bell-Jellico Branch between milepost BJ-199.85 near Dade and Milepost BJ-200.16 at Ruby, in Bell County, KY, subject to standard employee protective and historic preservation conditions.

**DATES:** Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on July 17, 1992. Formal expressions of intent to file an offer<sup>1</sup> of financial assistance under 49 CFR 1152.27(c)(2) must be filed by June 27, 1992, petitions to stay must be filed by July 2, 1992, and petitions for reconsideration must be filed by July 13, 1992. Requests for a public use condition must be filed by July 7, 1992.

**ADDRESSES:** Send pleadings, referring to Docket No. AB-55 (Sub-No. 414X), to:

- (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423. and
- (2) Petitioner's representative: Charles M. Rosenberger, CSX Transportation, Inc., 500 Water Street, Jacksonville, FL 32202.

**FOR FURTHER INFORMATION CONTACT:** Richard B. Felder, (202) 927-5610, (TDD for hearing impaired: (202) 927-5721).

**SUPPLEMENTARY INFORMATION:** Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pickup in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone (202) 289-4357/4359. [Assistance for the hearing impaired is available through TDD service (202) 927-5721.]

Decided: June 10, 1992.

<sup>1</sup> See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).



By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and Emmett.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-14207 Filed 6-16-92; 8:45 am]

BILLING CODE 7035-01-M

## DEPARTMENT OF JUSTICE

### Lodging of Consent Decree

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on June 11, 1992, a proposed Consent Judgment in *State of New York v. Shore Realty Corp., et al.*, Civil Nos. 84-0864 (JBW), 85-2270 (JBW), was lodged with the United States District Court for the Eastern District of New York. The proposed Consent Judgment is entered into by the State of New York; the United States, on behalf of the National Oceanographic and Atmospheric Administration and the Department of the Interior ("Natural Resource Damage Trustees"); and the settling potentially responsible parties.

The Consent Judgment settles claims by the State of New York and the United States, on behalf of the Natural Resource Damage Trustees, relating to the Applied Environmental Services Site ("Site"), under the Comprehensive Environmental Response, Compensation, and Liability Act.

Pursuant to the terms of the Consent Judgment, certain settling defendants will pay the sum of \$124,000 to the United States on behalf of the Natural Resource Damage Trustees. These defendants shall also be responsible for implementing a planting program at the Site and ensuring that a bulkhead located at the Site does not serve as a source of contamination. In addition, the Consent Judgment permits the Natural Resource Damage Trustees to participate in the development and implementation of the monitoring program at the Site.

Pursuant to the Consent Judgment, the Veterans Administration and the United States Coast Guard shall also settle claims brought against them as de minimis generators at the Site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Judgment. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *State of New York v. Shore Realty Corp., et al.* D.O.J. Ref. 90-11-3-72A.

The proposed Consent Decree may be examined at the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278. Copies of the Consent Decree may be examined at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building, NW., Washington, DC 20044 (202-347-2072). A copy of the proposed Consent Judgment may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building NW., Box 1097, Washington, DC 20044. In requesting a copy, please refer to the referenced case and enclose a check in the amount of \$113.25 (25 cents per page reproduction cost) made payable to Consent Decree Library.

Roger Clegg,

Acting Assistant Attorney General,  
Environment and Natural Resources Division.

[FR Doc. 92-14226 Filed 6-16-92; 8:45 am]

BILLING CODE 4410-01-M

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research Act of 1984; Dry Systems Technologies

Notice is hereby given that, on May 14, 1992, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), the Cyprus Coal Company, has filed written notification of Dry Systems Technologies cooperative research project simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the project, and (2) the nature and objectives of the project. The notification was filed for the purpose of invoking the Act's provisions limiting the potential recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the project and its general area of planned activities are given below.

The current members to the project are: Brookville Mining Equipment Corporation, Brookville, Pennsylvania; Cooling Systems International, Grand Junction, Colorado; Cyprus Coal Company, Englewood, Colorado; Fuel Resources Development Co., Denver, Colorado; Getman Technologies Co., Bangor, Michigan; and Goodman Equipment Corporation, Bedford Park, Illinois.

The objectives of the cooperative research project are to develop, refine and patent, license and/or produce an exhaust treatment system for diesel

engines used in underground mines. The primary function of the exhaust treatment system is to remove substantially all particulate matter from the exhaust gases. The cooperative research project is currently engaged in certifying the underground system with the Mine Safety and Health Administration (MSHA), and expects to receive a certification shortly. As a secondary objective, the cooperative research project also plans to adapt the exhaust treatment system so that it can be used on diesel engines not used in the mining environment. The parties intend to file additional written notification disclosing all changes in membership of this cooperative research project.

Jospeh H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 92-14179 Filed 6-16-92; 8:45 am]

BILLING CODE 4410-01-M

#### Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Department policy, 28 CFR 50.7, and section 122(d)(2) of CERCLA, 42 U.S.C. 9622(d)(2), notice is hereby given that on May 12, 1992 a proposed Consent Decree in *United States v. Pennsylvania Power & Light Co., et al.*, Civil Action No. 92-CV-2730, was lodged with the United States District Court for the Eastern District of Pennsylvania. The Consent Decree requires defendants to pay \$416,503.65 in past response costs incurred by the United States at the Brodhead Creek Superfund Site in the Borough of Stroudsburg, Monroe County, Pennsylvania. The Consent Decree also requires the defendants to implement the remedy selected in EPA's March 29, 1991 Record of Decision.

The Department of Justice will receive for a period of thirty (30) days from the date of publication of this notice comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States v. Pennsylvania Power & Light Co., et al.*, DOJ Ref. #90-11-2-718.

The proposed Consent Decree may be examined at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building, NW., Washington, DC 20044 (202-347-2072). A copy of the proposed Consent Decree may be obtained in person or by mail



from the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building, NW., Box 1097, Washington, DC 20004. If requesting a copy of the Consent Decree only, please enclose a check in the amount of \$22.00 (25 cents per page reproduction charge). If requesting a copy of the Consent decree and Appendices, please enclose a check in the amount of \$48.25 (25 cents per page reproduction cost). Checks should be payable to the "Consent Decree Library."

John C. Cruden,

Chief, Environmental Enforcement Section,  
Environment and Natural Resources Division.

[FR Doc. 92-14178 Filed 6-16-92; 8:45 am]

BILLING CODE 4410-01-M

### Immigration and Naturalization Service

[INS No. 1382-92]

#### Mailing Addresses for Filing Asylum and Asylum-Related Applications

**AGENCY:** Immigration and Naturalization Service, Justice.

**ACTION:** Notice.

**SUMMARY:** This notice provides mailing addresses for filing applications for asylum in the United States under section 208 of the Immigration and Nationality Act. This notice is necessary to streamline the processing of applications in the asylum offices.

**FOR FURTHER INFORMATION CONTACT:** Christine Davidson, Senior Policy Analyst, Office of International Affairs, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, Attn: ULLICO, Third Floor; Telephone (202) 633-1041.

**SUPPLEMENTARY INFORMATION:** Beginning June 17, 1992, Form I-589, Request for Asylum in the United States, and related Forms G-325A, Biographic Information, FD-258, Applicant Chart, G-28, Notice of Entry of Appearance as Attorney or Representative, and Form I-765, Application for Employment Authorization (when accompanying the I-589), must be mailed to the respective Service Center that has jurisdiction over the alien's place of residence for the four asylum offices located in Los Angeles, Miami, Newark, and San Francisco, as delineated below. Complete asylum applications, including all the required forms, must be filed in quadruplicate and must include two photographs (according to ADIT specifications) for each individual included in the asylum application.

### Los Angeles

Asylum applicants within the jurisdiction of the Los Angeles Asylum Office shall mail their applications to the USINS Western Service Center, P.O. Box 10589, Laguna Niguel, CA 92607-0589. The Asylum Office in Los Angeles has jurisdiction over the State of Arizona, the southern portion of California as listed in 8 CFR 100.4(b)(16) and 100.4(b)(39), and the southern portion of the State of Nevada currently within the jurisdiction of the Las Vegas suboffice.

### Miami

Asylum applicants within the jurisdiction of the Miami Asylum Office shall mail their applications to the USINS Southern Service Center, P.O. Box 152122, Department A, Irving, TX 75015-2122. The Asylum Office in Miami has jurisdiction over the State of Florida, the Commonwealth of Puerto Rico, and the United States Virgin Islands.

### Newark

Asylum applicants within the jurisdiction of the Newark Asylum Office shall mail their applications to the USINS Eastern Service Center, 75 Lower Welden Street, St. Albans, VT 05479-0008. The Asylum Office in Newark has jurisdiction over the State of Pennsylvania excluding the jurisdiction of the Pittsburgh suboffice, and the States of Maine, New Hampshire, Vermont, New York, Connecticut, Massachusetts, Rhode Island, New Jersey, and Delaware.

### San Francisco

Asylum applicants within the jurisdiction of the San Francisco Asylum Office shall mail their applications to the USINS Northern Service Center, room B-26, 100 Centennial Mall North, Lincoln, NE 68508. The Asylum Office in San Francisco has jurisdiction over the northern part of California as listed in 8 CFR 100.4(b)(13), the portion of Nevada currently under the jurisdiction of the Reno suboffice, and the States of Oregon, Washington, Alaska, Hawaii and the Territory of Guam.

#### Filing Applications With Other Asylum Offices

Asylum applicants filing applications under the jurisdiction of the other three asylum offices located in Arlington, VA; Chicago, IL; and Houston, TX, will continue to file their applications with the respective asylum office (at the addresses listed below) until October 1, 1992.

### ADDRESSES:

Arlington Asylum Office, P.O. Box 3599, Arlington, VA 22203-0599.  
Houston Asylum Office, P.O. Box 670626, Houston, TX 77267-0262.  
Chicago Asylum Office, 175 West Jackson Boulevard, suite 1641, Chicago, IL 60604.

After October 1, 1992, asylum applications must be sent directly to the Service Centers. The appropriate Service Centers accepting applications after October 1, 1992, for these locations will be identified by notice published in the *Federal Register* at a later date.

Dated: June 10, 1992.

Gene McNary,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 92-14145 Filed 6-16-92; 8:45 am]

BILLING CODE 4410-10-M

### DEPARTMENT OF LABOR

#### Pension and Welfare Benefits Administration

[Application No. D-8944, et al.]

#### Proposed Exemptions; NCNB Stable Capital Fund, et al.

**AGENCY:** Pension and Welfare Benefits Administration, Labor.

**ACTION:** Notice of proposed exemptions.

**SUMMARY:** This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restriction of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

#### Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this *Federal Register* Notice. Comments and request for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing. A request for a hearing must also state the issues to be addressed and include a



general description of the evidence to be presented at the hearing.

**ADDRESSES:** All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, room N-5649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, room N-5507, 200 Constitution Avenue, NW., Washington, DC 20210.

#### Notice of Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the *Federal Register*. Such notice shall include a copy of the notice of proposed exemption as published in the *Federal Register* and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

**SUPPLEMENTARY INFORMATION:** The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefor, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

**NCNB Stable Capital Fund (the Fund)**  
Located in Charlotte, North Carolina

[Application No. D-8944]

#### Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set

forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a) and 406(b)(1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the retention by the Fund from December 31, 1991, through April 6, 1992, of a certain bank investment contract (the Contract), provided that such retention was on terms at least as favorable to the Fund as those available in arm's length transactions with unrelated parties.

**Effective Date:** If granted, this proposed exemption will be effective as of December 31, 1991.

#### Summary of Facts and Representations

1. Until December 31, 1991, NCNB National Bank of North Carolina (NCNB) was a national banking association wholly owned by NCNB Corporation. Until December 31, 1991, Sovran Bank, N.A. (Sovran) was a national banking association wholly owned by C&S/Sovran Corporation (C&S/Sovran). C&S/Sovran was acquired by NCNB Corporation as of December 31, 1991, resulting in a new parent company named NationsBank Corporation (NationsBank). NCNB became NationsBank of North Carolina, N.A. and Sovran became NationsBank of Virginia, N.A.

2. The Fund is a common trust fund originally established by NCNB for the collective investment of funds contributed thereto by employee benefit trusts. NationsBank of North Carolina, N.A. succeeded NCNB as the trustee of the Fund and has sole investment discretion with respect to the assets of the Fund. The assets of the Fund totaled approximately \$715 million, as of November 29, 1991. Approximately 900 pension plans are currently participating in the Fund.

3. The Contract was purchased by the Fund from Sovran on April 6, 1990, in the amount of \$15 million. The interest rate on the Contract was 9.15 percent and the maturity date was April 6, 1992. Because of the acquisition of C&S/Sovran by NCNB Corporation and subsequent name changes, the Contract was a deposit obligation of NationsBank of Virginia, N.A., incurred by such institution in the ordinary course of business. The terms of the Contract explicitly provided that such Contract was nontransferable and that neither the principal sum nor any portion thereof could be withdrawn prior to maturity. The Contract was treated as a "deposit" subject to Federal Deposit Insurance Corporation coverage and the

applicant believes it would be classified as a "time deposit" under applicable Federal banking regulations.<sup>1</sup>

4. At the time of the purchase of the Contract, NCNB was unrelated to Sovran. However, the applicant believes that the retention of the Contract following the acquisition of C&S/Sovran by NCNB Corporation might have resulted in prohibited transactions under sections 406(a) and 406(b) of the Act because of the ensuing relationship between the discretionary trustee of the Fund and the issuer of the Contract. That relationship after December 31, 1991, according to the applicant, may have involved an extension of credit between plans (participating in the Fund) and a party in interest, a transfer to a party in interest of any assets of such plans, and transactions whereby a fiduciary deals with plan assets in the fiduciary's own interest or acts in a transaction involving the plans on behalf of a party whose interests are adverse to those of the plans. Accordingly, the applicant requests an exemption for the continued holding of the Contract by the Fund from December 31, 1991, through April 6, 1992.

The applicant states that interest rates available on other investments comparable to the remaining term of the Contract (taking account of the size, term and safety of the investment) were substantially lower at the time of the above mentioned acquisition than that on the Contract. For example, the rate on six-month certificates of deposit as of December 31, 1991, was approximately 4.32 percent according to the *Bloombering Financial Market Commodity News*, a database analysis program (not affiliated with NationsBank) which offers a variety of reference services, especially in regard

<sup>1</sup> Section 408(b) (4) of the Act and the regulations issued thereunder (29 CFR 2550.408b-4) provide a statutory exemption, under certain conditions, for the investment of a plan's assets in deposits which bear a reasonable interest rate in a bank supervised by the United States or a State if the bank is a fiduciary of the plan. However, the applicant represents that the investment in the Contract does not meet the conditions of such statutory exemption in the case of plans (participating in the Fund) for employees of employers other than NationsBank or its affiliates for the following reasons. First, investment in the Contract is not expressly authorized by a provision of the plan documents of such plans stating that NationsBank of North Carolina, N.A. as trustee of the Fund may invest assets of the Fund in deposits which bear a reasonable rate of interest in itself or an affiliate. Second, investment of assets of such plans in the Contract has not been authorized by a fiduciary (other than NationsBank or any of its affiliates) who is expressly empowered by the plans to provide such investment instructions to the Fund trustee and who has no interest in the transaction which may affect the exercise of such person's best judgment as a fiduciary.



to fixed income investments. The continued holding of the Contract to its maturity by the Fund offered plans participating in the Fund the opportunity to retain the benefits of an asset bearing a superior yield with a high degree of safety. As of the maturity of the Contract on April 6, 1992, all payments of interest were credited to the Fund and the principal amount of the Contract was returned to the Fund.

5. In summary, the applicant represents that the transaction satisfied the statutory criteria of section 408(a) of the Act because: (1) The issuer of the Contract was unrelated to the trustee of the Fund at the time of its purchase by the Fund; (2) the retention of the Contract by the Fund after December 31, 1991, was prohibited merely as a result of the acquisition of C&S/Sovran by NCNB Corporation; (3) according to the terms of the Contract such Contract was nontransferable and could not be withdrawn prior to maturity (4) all payments of interest were credited to the Fund and the principal amount of the Contract was returned to the Fund as of maturity on April 6, 1992; and (5) the yield commensurate with safety on the Contract was considerably higher at the time of the acquisition of C&S/Sovran than that available on suitable alternative investments for the Fund.

**FOR FURTHER INFORMATION CONTACT:** Paul Kelly of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

**S&C Pension Plan (the Plan) Located in Chicago, Illinois**

[Application No. D-8995]

**Proposed Exemption**

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to: (1) The continued holding by the Plan on and after January 1, 1993, of stock (the Stock) of S&C Electric Company (S&C), the Plan sponsor and a party in interest with respect to the Plan; and (2) the acquisition, holding and exercise by the Plan of an irrevocable put option (the Put Option) which permits the Plan to sell the Stock to S&C at a price which is the greater of the appraised fair market

value of the Stock as of December 31, 1992, or the appraised fair market value of the Stock at the time of the exercise of the Put Option, provided: (a) the Plan's continued holding of the Stock is monitored by a qualified, independent fiduciary; (b) the Plan's independent fiduciary will take whatever action is necessary to protect the Plan's rights, including, but not limited to, the exercising of the Put Option if the independent fiduciary, in his sole discretion, determines that such exercise is appropriate; and (c) S&C establishes an account for the benefit of the Plan (the Account), as described herein, which will be maintained as long as the Plan continues to hold any shares of the Stock.

**Effective Date:** If the proposed exemption is granted, the exemption will be effective January 1, 1993.

**Summary of Facts and Representations**

1. The Plan is a defined benefit plan which had 1,488 participants as of October 1, 1991 and had total assets with an approximate fair market value of \$27,856,000 as of that date. The Plan is maintained by S&C, a corporation headquartered in Chicago, Illinois, which is engaged in the production of high-voltage switching and protection for the electricity industry.

2. S&C has two classes of Stock: Class A and Class B. Owners of each class of Stock share equally in the equity of S&C. However, shareholders of Class A stock are entitled to one vote per share, while shareholders of Class B stock are entitled to ten votes per share. The Stock is closely-held stock which is not publicly-traded.

3. The Plan currently holds 1,256.2 shares of Stock, which includes 1,142 shares of Class A Stock and 114.2 shares of Class B Stock. As of the most recent Plan asset valuation date, September 30, 1991, the Stock equalled approximately 12% of total Plan assets. The Plan has continually held Stock since 1968.

The last acquisition of Stock by the Plan was in 1983. While the value of the Stock has increased recently relative to the value of the rest of the Plan's assets, the applicant represents that immediately following each acquisition of Stock, no more than 10% of the then fair market value of the Plan's assets consisted of Stock. The applicant represents that the Plan will not acquire any additional Stock.

4. The applicant represents that the Stock currently meets, and will continue to meet, the requirements of section 407(f)(1)(A) of the Act because the Plan now holds only 3.4% of each class of issued and outstanding Stock. However, the applicant represents that, because

the Stock is closely-held, it will not satisfy section 407(f)(1)(B) which requires that at least 50% of the aggregate amount of the Stock which is issued and outstanding be held by persons who are independent of the issuer. Accordingly, the applicant has requested the relief proposed herein to permit the Plan's continued holding of the Stock.

5. In connection with the Plan's continued holding of the Stock, the Plan will obtain a Put Option from S&C effective January 1, 1993. The Put Option will be exercisable by the Plan's independent fiduciary (see Rep. 6, below). The Put Option will permit the Plan to require S&C to purchase from the Plan all or any portion of the Stock then held by the Plan. The Put Option will remain in effect as long as the Plan continues to hold any shares of the Stock, even if a portion of the Stock is sold either pursuant to the Put Option or otherwise. The purchase price to S&C of such Stock sold pursuant to the Put Option will be the greater of the fair market value of the Stock as of December 31, 1992, or the fair market value of the Stock as of the exercise of the Put Option. In both cases, the fair market value of the Stock will be determined by a qualified, independent appraiser. As of March 6, 1992, the independent accounting firm of Price Waterhouse (PW) has appraised the fair market value for a nonmarketable, minority interest in the Class A Stock to be within the range of \$3,035 and \$3,135 per share. PW has appraised the fair market value for a nonmarketable minority interest in the Class B Stock to be within the range of \$3,187 and \$3,292 per share, also as of March 6, 1992.

6. The Plan will, at all times while it continues to hold the Stock, retain an independent fiduciary to monitor the continued holding of the Stock. The Plan has retained as independent fiduciary for this purpose Mr. James A. McMullen (McMullen). McMullen, a CPA, is a retired partner of PW, where he worked from 1958-1989. At PW, McMullen was responsible for large client tax, trust and estate work. As part of his work at PW, he specialized in the analysis and valuation of privately-held securities such as the Stock. McMullen represents that he is independent, having no employment, director, ownership or other relationship to S&C. McMullen represents that he will monitor the Plan's continued holding of the Stock and, will exercise on behalf of the Plan the Put Option obtained from S&C, if and when he believes that it is appropriate to do so. Under the Put Option, McMullen has the authority to



require S&C to buy all or any part of the Plan's holdings of the Stock that he determines to be appropriate.

7. The applicant represents that an independent appraisal of the Stock will be performed no less frequently than on an annual basis. For purposes of the Plan's exercising of the Put Option, the independent appraiser will be directed to provide a specific price for the Stock instead of a range of values. McMullen will have the authority to select the independent appraiser of his choosing.

8. As an additional safeguard for the Plan, S&C represents that it will establish the Account by January 1, 1993. The Account will be established for the specific purpose of honoring S&C's obligations under the Put Option. The Account will be maintained at Harris Bank in Chicago, Illinois, and will be entitled "S&C Electric Company for the Benefit of S&C Pension Plan Trust Agreement". The assets of the Account will consist of U.S. Treasury Bills and U.S. Treasury Notes which will represent 25% of the value of the Stock as of December 31, 1992. The Plan will have a lien against the assets in the Account, so that the Plan will have priority over all creditors of S&C with respect to those assets. The applicant represents that the Account will be maintained as long as the Plan continues to hold the Stock, and will hold assets with a minimum value of 25% of the price per share of the Stock as of December 31, 1992, times the number of shares still held by the Plan. The applicant represents that it is intended that payments made by S&C to honor the Put Option will not actually be funded from the Account, but the Account is designed as "insurance" to make certain that S&C will be able to honor its obligations under the Put Option.

9. In summary, the applicant represents that the proposed transaction satisfies the criteria contained in section 408(a) of the Act because: (1) The Plan holds only 3.4% of each class of issued and outstanding Stock; (2) the Plan has obtained a Put Option which will permit the Plan to sell any or all shares of the Stock to S&C, upon the independent fiduciary's decision, at a price which is the higher of the fair market value of the Stock as of December 31, 1992, or at the time of the exercise of the Put Option; (3) the fair market value of the Stock will be determined by a qualified, independent appraiser; (4) McMullen, the Plan's independent fiduciary, will monitor the Plan's continued holding of the Stock and will determine, among other things, whether to exercise the Put Option; and (5) S&C will establish the

Account, which will hold assets worth 25% of the value of the Stock as of December 31, 1992, for the purpose of honoring S&C's obligations with respect to the Put Option.

**FOR FURTHER INFORMATION CONTACT:** Gary H. Lefkowitz of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

#### General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 12th day of June, 1992.

Ivan Strasfeld,

Director of Exemption Determinations,  
Pension and Welfare Benefits Administration,  
U.S. Department of Labor.

[FR Doc. 92-14244 Filed 6-16-92; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 92-39;  
Exemption Application No. D-8861, et al.]

#### Grant of Individual Exemptions; Toplis and Harding, Inc. Retirement Plan, et al.

**AGENCY:** Pension and Welfare Benefits Administration, Labor.

**ACTION:** Grant of individual exemptions.

**SUMMARY:** This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the *Federal Register* of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

#### Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the



Code and the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

- (a) The exemptions are administratively feasible;
- (b) They are in the interests of the plans and their participants and beneficiaries; and
- (c) They are protective of the rights of the participants and beneficiaries of the plans.

**Toplis and Harding, Inc. Retirement Plan (the Plan) Located in New York, New York**

[Prohibited Transaction Exemption 92-39; Exemption Application No. D-8861]

**Exemption**

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale by the Plan of certain units (the Units) in the Real Estate Fund No. 1 of the Continental Investment Trust for Employee-Benefit Plans to Toplis and Harding, Inc., a party in interest with respect to the Plan, provided the following conditions are satisfied: (1) The sale is a one-time transaction for cash; (2) the Plan pays no commissions with respect to the sale; and (3) the sales price will be the higher of (a) the Plan's cost for the Units, or (b) the fair market value of the Units on the date of the sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on April 24, 1992 at 57 FR 15109.

**FOR FURTHER INFORMATION CONTACT:** Gary H. Lefkowitz of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

**Communications Workers of America Pension and Death Benefit Trust Fund and The National Paint and Coatings Association, Inc. Pension Trust (together, the Plans) Located in Washington, DC**

[Prohibited Transaction Exemption 92-40; Exemption Application Nos. D-8634 and D-8636]

**Exemption**

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the

Code, shall not apply to the cash sale by the Plans of certain participations (the Participations) in a real estate loan (the Loan) secured by certain deeds of trust held by the respective Plans, to First American Bank, a party in interest with respect to the Plans, provided the following conditions are satisfied: (1) The sales are one-time transactions for cash; (2) each Plan receives an amount representing the greater of (a) fair market value of the Participation held by it as of the date of the sale, or (b) the outstanding principal balance of the Participation, plus accrued interest, at the time the transaction is consummated; and (3) at the time the transaction is consummated, a qualified, independent appraiser has appraised the property securing the Loan and valued the Participations, and determined that the sales price is no less than the current fair market value of the Participations.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on April 24, 1992 at 57 FR 15105.

**FOR FURTHER INFORMATION CONTACT:** Gary H. Lefkowitz of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

**Marquette Bank Minneapolis, N.A. Employee Benefit Select Fixed Income Contract Fund (the Fund) Located in Minneapolis, Minnesota**

[Prohibited Transaction Exemption 92-41; Exemption Application No. D-8652]

**Exemption**

The restrictions of sections 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the cash sale (the Sale) of certain assets of the Fund (the Assets) by the Fund to Marquette Bank Minneapolis, N.A. (the Bank), a party in interest with respect to the Fund, for the greater of either (1) the aggregate fair market value of the Assets, as determined by a qualified, independent appraiser, plus the face value of any contracts for deed and mortgage notes that have matured and remain unpaid on the date of the Sale, or (2) the aggregate value of the Assets on July 31, 1990, as determined by the regular valuation procedures of the Bank and reduced by the amount of distribution to participants of the Fund for the period beginning on August 1, 1990, and ending immediately prior to the Sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 24, 1992, at 57 FR 15107.

**FOR FURTHER INFORMATION CONTACT:** Mr. C. E. Beaver of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

**Palm Springs Mirror and Glass, Inc. Money Purchase Pension Plan and the Palm Springs Mirror and Glass, Inc. Restated Profit Sharing Plan (collectively, the Plans) Located in Cathedral City, CA**

[Prohibited Transaction Exemption 92-42; Exemption Application Nos. D-8855 and D-8856, respectively]

**Exemption**

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to proposed loans (the Loans) by the Plans of an amount that will not exceed \$72,000 to Valley Investment (the Partnership), a party in interest with respect to the Plans, provided the following conditions are satisfied: (1) The terms of the Loans are at least as favorable to the Plans as those obtainable in an arm's length transaction with an unrelated party; (2) the Loans will not exceed 25 percent of the assets of either Plan; (3) the Loans are secured by a first mortgage on certain real property (the Property), which has been appraised by a qualified, independent appraiser, to ensure that the fair market value of the Property is at least 150 percent of the amount of the Loans; (4) throughout the duration of the Loans, the fair market value of the collateral remains at least equal to 150 percent of the outstanding balance of such Loans; and (5) the independent fiduciary, who has initially determined that the proposed Loans are appropriate investments for the Plans, monitors the repayment of the Loans and enforces the rights of the Plans.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on April 17, 1992 at 57 FR 13774.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jan D. Broady of the Department, telephone (202) 523-8881. (This is not a toll-free number.)



**Smart Chevrolet Co. Employees' Profit Sharing Retirement Plan (the P/S Plan) Located in Pine Bluff, Arkansas**

[Prohibited Transaction Exemption 92-43; Exemption Application No. D-8874]

**Exemption**

The restrictions of section 406 (a) and (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to: (1) The secured loans (the Loans) by the P/S Plan to Motors Finance Company (Motors), a party in interest with respect to the P/S Plan and (2) the guaranty of such Loans (the Guaranty) by the individual partners of Motors; provided that the following conditions are met: (a) The terms and conditions of the Loans are at least as favorable as those which the P/S Plan could have received in similar transactions with an unrelated third party; (b) an independent fiduciary negotiates, reviews, approves, and monitors the Loans and the Guaranty under the terms and conditions as set forth in paragraph six of the Notice of Proposed Exemption (the Notice); and (c) the balance for all Loans, plus the balance of any outstanding loans made pursuant to PTE 85-121, will at no time exceed 25% of the assets of the P/S Plan.

**Written Comments**

The Department received no requests for hearing and one written comment from the applicant with respect to the Notice. In this letter, the applicant informed the Department that it wished to correct certain typographical errors and other information published in the Summary of Facts and Representations in the notice. In paragraph number three, Richard L. Smart is incorrectly represented to be on the Trust Advisory Committee of Worthen Bank, when in fact he is on the Trust Advisory Committee of the Worthen Trust. Accordingly, the above information is incorporated into the granted exemption as corrected.

**Temporary Nature of Exemption**

The Department has determined that the exemption will be temporary in nature and will expire five years after the date of the grant. However, the exemption will extend until the maturity of any of the ninety day Loans made with the five year period.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the Notice published on April 24, 1992, 57 FR 15109.

**FOR FURTHER INFORMATION CONTACT:** Angelena C. Le Blanc of the Department telephone (202) 523-8883. (This is not a toll-free number.)

**Sterling S. Baker, M.D., Inc. Profit Sharing Plan (the Plan) Located in Oklahoma City, Oklahoma**

[Prohibited Transaction Exemption 92-44; Exemption Application No. D-8909]

**Exemption**

The restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the cash sale (the Sale) of certain unimproved real property (the Property) by the Plan to Sterling S. Baker, M.D., a party in interest with respect to the Plan, provided that the consideration paid for the Property is no less than the greater of (1) \$115,483.77, or (2) the fair market value of the Property on the date of the Sale as determined by a qualified, independent appraiser.

For a complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 24, 1992, at 57 FR 15112.

**FOR FURTHER INFORMATION CONTACT:** Mr. C.E. Beaver of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

**Bill Rodgers, Inc. Pension Plan (the Plan) Located in Boston, Massachusetts**

[Prohibited Transaction Exemption 92-45; Exemption Application No. D-8911]

**Exemption**

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the purchase (the Purchase) of certain real property (the Property) by the Plan from William H. Rodgers, a disqualified person with respect to the Plan, provided that (1) The Plan pays no more than the fair market value for the Property as determined by a qualified, independent appraiser on the date of the Purchase; and (2) the Property is not leased to or used by any disqualified person with respect to the Plan.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on May 8, 1992, at 57 FR 19949.

**FOR FURTHER INFORMATION CONTACT:** Mr. C.E. Beaver of the Department,

telephone (202) 523-8881. (This is not a toll-free number.)

**Richmond, Fredericksburg and Potomac Railway Company Employee Thrift and Investment Plan (the Plan) Located in Richmond, Virginia**

[Prohibited Transaction Exemption 92-46; Exemption Application No. D-8921]

**Exemption**

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to (1) interest-free extensions of credit to the Plan (the Advances) by the Richmond, Fredericksburg & Potomac Corporation, a party in interest with respect to the Plan, with respect to guaranteed investment contract number GA-5250 (the GIC) issued by Mutual Benefit Life Insurance Company of New Jersey (Mutual Benefit); and (2) the Plan's potential repayment of the Advances (the Repayments); provided that (a) All terms of such transactions are no less favorable to the Plan than those which the Plan could obtain in an arm's-length transaction with an unrelated party, (b) no interest and/or expense are paid by the Plan, (c) the Advances are made only in lieu of payments due from Mutual Benefit with respect to the GIC, (d) the Repayments are restricted to amounts received by the Plan from Mutual Benefit or any other responsible party making payments pursuant to the GIC, and (e) the Repayments shall in no event exceed the amounts actually received by the Plan from Mutual Benefit and other responsible parties with respect to the GIC.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 17, 1992 at 57 FR 13768.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ronald Willett of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

**General Information**

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exception under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404



of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is subject of the exemption.

Signed at Washington, DC, this 12th day of June, 1992.

Ivan Strasfeld,

Director of Exemption Determinations  
Pension and Welfare Benefits Administration,  
U.S. Department of Labor.

[FR Doc. 92-14245 Filed 6-16-92; 8:45 am]

BILLING CODE 4510-29-M

## LIBRARY OF CONGRESS

### Copyright Office

[Docket No. 92-1]

### Policy Decision

**AGENCY:** Library of Congress; Copyright Office.

**ACTION:** Policy Decision.

**SUMMARY:** The Copyright Office records transfers and other documents relating to copyright under the Copyright Act, and documents relating to mask works under the Semiconductor Chip Protection Act of 1984. The administration of the recordation functions are governed by sections 203, 205, 302(c) and 304(c) of the Copyright Act and section 903(b) of the Semiconductor Chip Act.

Regulations issued by the Copyright Office under authority of the Copyright Act are found in 37 CFR 201.4, 201.10, 201.25, and 201.26. No regulations concerning recordation have been issued under the Semiconductor Chip Act. In addition, the Office issued

chapter 16 of the Compendium of Copyright Office Practices II covering practices for the recordation of documents in 1984. This announcement is to inform the public that the Office continues to record only those documents meeting statutory and regulatory requirements, but no longer examines documents for compliance with all of the requirements set out in chapter 16 of Compendium II.

**EFFECTIVE DATE:** June 17, 1992.

**FOR FURTHER INFORMATION CONTACT:** Dorothy Schrader, General Counsel, U.S. Copyright Office, Library of Congress, Washington, DC 20540. Telephone (202) 707-8380.

**SUPPLEMENTARY INFORMATION:** The Compendium of Copyright Office Practices II is a manual of practices intended primarily for use of the staff of the Copyright Office as a general guide to its examination of claims to copyright, recordation of documents, and related practices. It is not a book of rules meant to provide a ready-made answer to all registration or recordation questions that could arise. The practices of the Copyright Office are subject to constant review and modification in the light of new experience and continuing reappraisal. Accordingly, additions, deletions, and amendments to practices are made from time to time.

This Policy Decision announces new practices with respect to recordation of documents pertaining to copyright.

In the past, the Office would examine a document not merely for compliance with the requirements of the Copyright Act and Office regulations. As a service to the public and in the interest of creating an accurate record, the Office would to a limited extent also examine the document for formal sufficiency, i.e., that it did not obviously fail to satisfy the legal requirements to be an effective document. The practices the Office followed in this regard are among those included in chapter 16 of Compendium II. This depth of examination is necessarily time consuming and labor intensive especially given the complexity and size of some documents.

The Office has recently reassessed its practices concerning recordation of documents with a view to minimize delays in the recordation process. The Office has experienced a substantial increase in the number of documents submitted for recordation in the last few years, especially after the decision in *National Peregrine, Inc. v. Capital Federal Savings and Loan Association of Denver*, 116 B.R. 194 (C.D. Cal. 1990). That case held that the Copyright Act preempts the recordation provisions of article Nine of the Uniform Commercial

Code which specified recordation in the states of "security interests" in copyrighted works. "Security interest" documents are among some of the more complex documents the Office receives.

The Office generally does not attempt to judge the legal sufficiency or interpret the substantive content of any document submitted for recordation. In the past it has, however, screened the document for obvious errors or discrepancies and brought these to the attention of the remitter, without refusing to record the document as submitted. Because of the increased number and complexity of documents submitted for recordation, the Office can no longer screen the documents for content and engage in correspondence with the remitter over apparent problems with the sufficiency of the document.

The Copyright Office continues to require that all documents must meet the requirements of the Copyright Act (or the Semiconductor Chip Protection Act, if applicable), and regulations which are applicable to the type of document submitted for recordation. Chapter 16 of Compendium II is hereby withdrawn and will be replaced in due course by a revised chapter 16. In submitting documents for recordation, the public should comply with the Copyright Act (or the Semiconductor Chip Protection Act, if applicable), especially 17 U.S.C., 203, 205, 302(c), 304(c), and 903(b), and also with Copyright Office regulations, 37 CFR, 201.4, 201.10, 201.25, and 201.26.

In the case of section 205 transfers (which constitute the bulk of recordable documents), the statutory and regulatory requirements can be summed up as follows. Any transfer of copyright ownership or any other document pertaining to a copyright may be recorded if: (1) The document bears the actual signature of the person who executed it, or if the document is accompanied by a sworn or official certification that it is a true copy of the original signed document; (2) the document is complete by its own terms or otherwise recordable; (3) the document is legible and capable of reproduction in legible microform copies; and (4) it is accompanied by the statutory recording fee.

Members of the public who submit documents for recordation cannot rely on the Copyright Office to screen their documents for even obvious errors in formal sufficiency. The public is therefore cautioned to review and scrutinize any document to assure its formal sufficiency before submitting it to the Copyright Office for recordation. The Copyright Office will record the



document without examining it even for obvious errors, but recordation may be without legal effect unless the remitter has prepared the document in a way that satisfies applicable legal requirements.

Dated: May 6, 1992.

Ralph Oman,

Register of Copyrights.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 92-14110 Filed 6-16-92; 8:45 am]

BILLING CODE 1410-07-M

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### Cooperative Agreement to Promote Artistic Exchange Between the U.S. and the Countries of Eastern Europe, Central Europe and the Former Soviet Union

**AGENCY:** National Endowment for the Arts.

**ACTION:** Notification of availability.

**SUMMARY:** The National Endowment for the Arts is requesting proposals leading to the award of a Cooperative Agreement with a nonprofit organization to carry out a project to promote artistic exchange between artists and arts organizations from the U.S. and those from the countries of Eastern Europe, Central Europe and the former Soviet Union. The tasks will include the administration of a process for the review of applications and awarding of grants to performing artists and arts organizations planning to work on collaborative projects with colleagues from the countries of Eastern Europe, Central Europe and the former Soviet Union, the administration of a related process for screening and placement of arts managers to carry out management fellowships in U.S. host organizations, and the planning and coordination of an orientation program for these fellows at the outset of their residency period. Eligibility to apply for the Cooperative Agreement is limited to nonprofit organizations. Subject to the availability of fiscal year 1993 funds, the Endowment anticipates awarding \$70,000 for subgrants under the cooperative agreement. The successful recipient will be expected to contribute matching funds of at least \$50,000. Those interested in receiving the Solicitation package should reference Program Solicitation PS 92-07 in their written request and include two (2) self-addressed labels. Verbal requests for the Solicitation will not be honored.

**DATES:** Program Solicitation PS 92-07 is scheduled for release approximately July 6, 1992 with proposals due August 6, 1992.

**ADDRESSES:** Requests for the Solicitation should be addressed to the National Endowment for the Arts, Contracts Division, room 217, 1100 Pennsylvania Ave., NW., Washington, DC 20506.

William I. Hummel,

Director, Contracts and Procurement Division.

[FR Doc. 92-14126 Filed 6-16-92; 8:45 am]

BILLING CODE 7537-01-M

### Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Presenting and Commissioning Advisory Panel (Regional Arts Organizations Presenting Support and Rural/Inner City Presenters Regrant Initiative Sections) to the National Council on the Arts will be held on July 1, 1992 from 9 a.m.-5:30 p.m. in room 714 at the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

Portions of this meeting will be open to the public from 11:15 a.m.-2 p.m. and 4:30 p.m.-5:30 p.m. The topic will be policy discussion.

The remaining portions of this meeting from 9 a.m.-11:15 a.m. and 2 p.m.-4:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682-5532, TTY 202/682-

5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: June 11, 1992.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 92-14146 Filed 6-16-92; 8:45 am]

BILLING CODE 7537-01-M

## NUCLEAR REGULATORY COMMISSION

### Final Memorandum of Understanding Between the U.S. Nuclear Regulatory Commission and the State of North Carolina

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** This notice is to advise the public of the issuance of a Final Memorandum of Understanding (MOU) between the U.S. Nuclear Regulatory Commission (NRC) and the State of North Carolina. The MOU provides the basis for mutually agreeable procedures whereby the North Carolina Division of Emergency Management may utilize the NRC Emergency Response Data System (ERDS) to receive data during an emergency at a commercial nuclear power plant in the State of North Carolina. Public comments were addressed in conjunction with the MOU with the State of Michigan published in the *Federal Register*, Vol. 57, No. 28, February 11, 1992.

**EFFECTIVE DATE:** This MOU is effective May 11, 1992.

**ADDRESSES:** Copies of all NRC documents are available for public inspection and copying for a fee in the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** John R. Jolicoeur or Eric Weinstein, Office for Analysis and Evaluation of Operational Data, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 492-4155 or (301) 492-7836.

This attached MOU is intended to formalize and define the manner in which the NRC will cooperate with the State of North Carolina to provide data related to plant conditions during



emergencies at commercial nuclear power plants in North Carolina.

Dated at Rockville, Maryland, this 4th day of June 1992.

For the Nuclear Regulatory Commission.  
James M. Taylor,  
*Executive Director for Operations.*

**Agreement Pertaining to the Emergency Response Data System Between the State of North Carolina and the U.S. Nuclear Regulatory Commission**

*I. Authority*

The U.S. Nuclear Regulatory Commission (NRC) and the State of North Carolina enter into this Agreement under the authority of section 274i of the Atomic Energy Act of 1954, as amended.

North Carolina recognizes the Federal Government, primarily the NRC, as having the exclusive authority and responsibility to regulate the radiological and national security aspects of the construction and operation of nuclear production or utilization facilities, except for certain authority over air emissions granted to States by the Clean Air Act.

*II. Background*

A. The Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended, authorize the Nuclear Regulatory Commission (NRC) to license and regulate, among other activities, the manufacture, construction, and operation of utilization facilities (nuclear power plants) in order to assure common defense and security and to protect the public health and safety. Under these statutes the NRC is the responsible agency regulating nuclear power plant safety.

B. NRC believes that its mission to protect the public health and safety can be served by a policy of cooperation with State governments and has formally adopted a policy statement on "Cooperation with States at Commercial Nuclear Power Plants and Other Nuclear Production or Utilization Facilities" (54 FR 7530, February 22, 1989). The policy statement provides that NRC will consider State proposals to enter into instruments of cooperation for certain programs when these programs have provisions to ensure close cooperation with NRC. This agreement is intended to be consistent with, and implement the provisions of the NRC's policy statement.

C. NRC fulfills its statutory mandate to regulate nuclear power plant safety by, among other things, responding to emergencies at licensee's facilities, monitoring the status and adequacy of

the licensee's responses to emergency situations.

D. North Carolina fulfills its statutory mandate to provide for preparedness, response, mitigation, and recovery in the event of an accident at a nuclear power plant through the North Carolina Emergency Response Plan for the Brunswick Steam Electric Plant, the North Carolina Emergency Response Plan for the Shearon Harris Nuclear Power Plant, the North Carolina Emergency Response Plan for the McGuire Nuclear Station, and the North Carolina Emergency Response Plan for the Catawba Nuclear Station.

*III. Scope*

A. This Agreement defines the way in which NRC and North Carolina will cooperate in planning and maintaining the capability to transfer reactor plant data via the Emergency Response Data System during emergencies at nuclear power plants, in the State of North Carolina.

B. It is understood by the NRC and the State of North Carolina that ERDS data will only be transmitted by a licensee during emergencies classified at the Alert level or above, during scheduled tests, or during exercises when available.

C. Nothing in this Agreement is intended to restrict or expand the statutory authority of NRC, the State of North Carolina, or to affect or otherwise alter the terms of any agreement in effect under the authority of section 274b of the Atomic Energy Act of 1954, as amended; nor is anything in this Agreement intended to restrict or expand the authority of the State of North Carolina on matters not within the scope of this Agreement.

D. Nothing in this Agreement confers upon the State of North Carolina authority to (1) interpret or modify NRC regulations and NRC requirements imposed on the licensee; (2) take enforcement actions; (3) issue confirmatory letters; (4) amend, modify, or revoke a license issued by NRC; or (5) direct or recommend nuclear power plant employees to take or not to take any action. Authority for all such actions is reserved exclusively to the NRC.

*IV. NRC's General Responsibilities*

Under this agreement, NRC is responsible for maintaining the Emergency Response Data System (ERDS). ERDS is a system designed to receive, store, and retransmit data from in-plant data systems at nuclear power plants during emergencies. The NRC will provide user access to ERDS data to one user terminal for the State of North

Carolina during emergencies at nuclear power plants which have implemented an ERDS interface and for which any portion of the plant's 10-mile Emergency Planning Zone (EPZ) lies within the State of North Carolina. The NRC will provide any software which is not commercially available and is necessary for configuring an ERDS workstation.

*V. North Carolina General Responsibilities*

A. North Carolina will, in cooperation with the NRC, establish a capability to receive ERDS data. To this end, North Carolina will provide the necessary computer hardware and commercially licensed software required for ERDS data transfer to users.

B. North Carolina agrees not to use ERDS to access data from nuclear power plants for which a portion of the 10-mile Emergency Planning Zone does not fall within its State boundary.

C. For the purpose of minimizing the impact on plant operators, clarification of ERDS data will be pursued through the NRC.

*VI. Implementation*

North Carolina and the NRC agree to work in concert to assure that the following communications and information exchange protocol regarding the NRC ERDS are followed.

A. North Carolina and the NRC agree in good faith to make available to each other information within the intent and scope of this Agreement.

B. NRC and North Carolina agree to meet as necessary to exchange information on matters of common concern pertinent to this Agreement. Unless otherwise agreed, such meetings will be held in the NRC Operations Center. The affected utilities will be kept informed of pertinent information covered by this Agreement.

C. To preclude the premature public release of sensitive information, NRC and North Carolina will protect sensitive information to the extent permitted by the Federal Freedom of Information Act, the State Freedom of Information Act, 10 CFR 2.790, and other applicable authority.

D. NRC will conduct periodic tests of licensee ERDS data links. A copy of the test schedule will be provided to North Carolina by the NRC. North Carolina may test its ability to access ERDS data during these scheduled tests, or may schedule independent tests of the State link with the NRC.

E. NRC will provide access to ERDS for emergency exercises with reactor units capable of transmitting exercise data to ERDS. For exercises in which the



NRC is not participating, North Carolina will coordinate with NRC in advance to ensure ERDS availability. NRC reserves the right to preempt ERDS use for any exercise in progress in the event of an actual event at any licensed nuclear power plant.

#### VII. Contacts

A. The principal senior management contacts for this Agreement will be the Director, Division of Operational Assessment, Office for Analysis and Evaluation of Operational Data, and the Director of the North Carolina Division of Emergency Management. These individuals may designate appropriate staff representatives for the purpose of administering this Agreement.

B. Identification of these contacts is not intended to restrict communication between NRC and North Carolina staff members on technical and other day-to-day activities.

#### VIII. Resolution of Disagreements

A. If disagreements arise about matters within the scope of this Agreement, NRC and North Carolina will work together to resolve these differences.

B. Resolution of differences between the State and NRC staff over issues arising out of this Agreement will be the initial responsibility of the NRC Division of Operational Assessment management.

C. Differences which cannot be resolved in accordance with Sections VIII.A and VIII.B will be reviewed and resolved by the Director, Office for Analysis and Evaluation of Operational Data.

D. The NRC's General Counsel has the final authority to provide legal interpretation of the Commission's regulations.

#### IX. Effective Date

This Agreement will take effect after it has been signed by both parties.

#### X. Duration

A formal review, not less than 1 year after the effective date, will be performed by the NRC to evaluate implementation of the Agreement and resolve any problems identified. This Agreement will be subject to periodic reviews and may be amended or modified upon written agreement by both parties, and may be terminated upon 30 days written notice by either party.

#### XI. Separability

If any provision(s) of this Agreement, or the application of any provision(s) to any person or circumstances is held

invalid, the remainder of this Agreement and the application of such provisions to other persons or circumstances will not be affected.

Dated: May 3, 1992.

For the U.S. Nuclear Regulatory Commission.

**James M. Taylor,**

*Executive Director for Operations.*

Dated: May 11, 1992.

For the State of North Carolina.

**Joseph F. Myers,**

*Director, North Carolina Division of Emergency Management.*

[FR Doc. 92-14221 Filed 6-16-92; 8:45 am]

BILLING CODE 7590-01-M

#### [Docket No. 40-8027]

#### **Sequoyah Fuels Corp., Gore, OK, Facility; Issuance of Director's Decision Under 10 CFR 2.206**

Notice is hereby given that the Director, Office of Nuclear Material Safety and Safeguards, has issued a decision concerning a Petition dated November 27, 1991, submitted by Native Americans for a Clean Environment and the Cherokee Nation regarding Sequoyah Fuels Corporation's (SFC's) Gore, Oklahoma, facility.

By Memorandum dated December 9, 1991, the Commission referred the Petition to the staff for consideration pursuant to 10 CFR 2.206. The Petition requested that the U.S. Nuclear Regulatory Commission revoke Sequoyah Fuels Corporation's operating license for the Sequoyah facility.

The Director of the Office of Nuclear Material Safety and Safeguards has determined to deny the Petition, except insofar as a Notice of Violation will be issued citing SFC for violating 10 CFR 40.9, and has decided to grant the Petition insofar as the staff will publish, in the *Federal Register*, notice of all SFC's license amendment applications until the staff takes final action on the license renewal application. The reasons for this Decision are explained in a "Director's Decision Under 10 CFR 2.206" (DD-92-03), which is available for public inspection in the Commission's Public Document Room located at 2120 L Street, NW., Washington, DC 20555, and the Local Public Document Room Stanley Tubbs Memorial Library, 101 E. Cherokee Street, Sallisaw, Oklahoma.

A copy of this Decision will be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206. As provided by this regulation, the Decision will constitute the final action of the Commission 25 days after the date of issuance of the Decision unless the

Commission on its own motion institutes a review of the Decision within that time.

Dated at Rockville, Maryland, this 8th day of June 1992.

For the Nuclear Regulatory Commission.

**Robert M. Bernero,**

*Director, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 92-14219 Filed 6-16-92; 8:45 am]

BILLING CODE 7590-01-M

#### [Docket Nos. 50-445 and 50-446]

#### **Texas Utilities Electric Co., Comanche Peak Steam Electric Station, Units 1 and 2; Receipt of Petition for Director's Decision Under 10 CFR 2.206**

Notice is hereby given that by Petition of May 19, 1992, Sandra Long Dow, dba Disposable Workers of Comanche Peak Steam Electric Station, and Micky Dow (Petitioners) have requested that the Commission take action regarding the Comanche Peak Steam Electric Station, Units 1 and 2. Specifically, the Petitioners request that the Commission order the immediate shutdown of Unit 1 of the Comanche Peak Steam Electric Station and institute a proceeding to modify, suspend, or revoke the license held by the Texas Utilities Electric Company for Unit 1. The Petitioners also request suspension of any consideration of extension or modification of the construction permit for Unit 2 of the facility pending the resolution of any proceeding regarding the license for Unit 1.

As a basis for this request, the Petitioners allege that the licensee has failed to demonstrate the necessary character and capability that are the primary factors to be considered in granting a license, and has shown a "downward spiral" in violations, reportable incidents, and NRC staff concerns, including perjury and probable criminal misconduct. To support this general assertion, the Petitioners allege numerous specific incidents, including that since November 1991, there has occurred: (1) A leak in a pressure tank causing 100 mile-per-hour winds in the access tunnel between Units 1 and 2, which resulted in a female employee being blown into a radiation area; (2) resin was spilled into the core because of personnel error and misalignment of valves; (3) a "hot" valve in Unit 2 cut in two causing a radiation release and exposure to several individuals; (4) of the sample weekly reports, 26 documented "reportable incidents," numerous areas showing



direct concern by Region IV, and at least 6 reactor trips; (5) proposed fines for violations totaling about \$100,000 for 1992; and (6) an additional reactor trip occurred during the week of May 11, 1992, after which the spent fuel pool for Unit 1 was without cooling water for approximately 20 hours causing an abnormal rise in temperature and which Petitioners submit is evidence of a continuing problem involving the use of improperly trained control room personnel. The Petitioners also submit as an attachment to their Petition a photograph which they assert shows Comanche Peak control room staff to be asleep, a practice which they state is known to be the common manner for control room personnel. The Petitioners also allege inaction on the part of Region IV personnel in response to the licensee's violations, and duplicity between the licensee and Region IV personnel. To support their assertion of such duplicity, the Petitioners claim that they can provide the Commission with the transcripts of audio tapes of conversations between the licensee and certain individuals.

The request is being treated pursuant to § 2.206 of title 10 of the Code of Federal Regulations (10 CFR 2.206). The request has been referred to the Director of the Office of Nuclear Reactor Regulation (NRR). As provided by 10 CFR 2.206, appropriate action will taken on this request within a reasonable time.

A copy of the Petition is available for inspection in the U.S. Nuclear Regulatory Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555 and at the University of Texas at Arlington Library, Government Publications/Maps, 701 South Cooper, P.O. Box 19497, Arlington, Texas 76019.

Dated at Rockville, Maryland, this 10th day of June 1992.

For the Nuclear Regulatory Commission,  
Frank J. Miraglia,  
Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 92-14220 Filed 6-16-92; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-322]

**Long Island Power Authority  
(Shoreham Nuclear Power Station, Unit 1); Order Approving Decommissioning Plan and Authorizing Decommissioning of Facility**

**I**

Long Island Power Authority (LIPA) is the holder of Facility Operating License No. NPF-82 issued by the U.S. Nuclear Regulatory Commission (the NRC)

pursuant to 10 CFR part 50 on April 21, 1989. The license was amended on June 14, 1991, to remove the authority to operate the Shoreham Nuclear Power Station (SNPS) in accordance with conditions specified therein, and authorizes the possession only of SNPS. The facility is located on the licensee's site in the Town of Brookhaven, Suffolk County, New York.

**II**

On February 28, 1989, Long Island Lighting Company (LILCO), the former licensee, entered into an agreement with the State of New York to transfer its Shoreham assets to an entity of the State for decommissioning. LILCO, however, continued to pursue with the NRC its request for a full-power license to operate its Shoreham plant. On April 21, 1989, the NRC issued to LILCO a Facility Operating License No. NPF-82, which allowed full-power operation of the Shoreham plant. On June 28, 1989, LILCO's shareholders ratified LILCO's agreement with the State. Consistent with the terms of the settlement agreement, which prohibits further operation of the Shoreham facility, LILCO defueled the reactor and reduced its staff. The NRC approved by Order, dated February 29, 1992, the transfer of the Shoreham license to the State entity, LIPA.

By letter dated January 2, 1991, LILCO requested approval of the proposed Decommissioning Plan for the Shoreham Nuclear Power Station, previously submitted by LIPA on December 29, 1990. The Decommissioning Plan was supplemented on August 26, November 27, and December 6, 1991. Additionally, LIPA submitted a No Significant Hazards Consideration Analysis concerning the Decommissioning Plan on January 22, 1992. A Notice of Consideration of Issuance of Amendment and Opportunity for Hearing regarding approval of the Decommissioning Plan was published in the *Federal Register* on December 23, 1991 (56 FR 66459). Comments and requests for hearings were received from the Shoreham-Wading River School District and Scientists and Engineers for Secure Energy, Inc., by letters dated January 22, 1992. The Commission in its Order dated April 3, 1992, directed the Secretary to forward the intervention petitions to the Atomic Safety and Licensing Board for further action. The petitions were withdrawn on June 3, 1992. The Commission, by order dated June 10, 1992, dismissed the proceeding based on this withdrawal. Also on June 10, 1992, the Commission in a Staff Requirements Memorandum (SRM) stated that it had no objection to

the issuance of an order authorizing decommissioning of the Shoreham facility.

**III**

The U.S. Nuclear Regulatory Commission (the Commission) has reviewed the application with respect to the provisions of the Commission's rules and regulations and has found that decommissioning as stated in the licensee's Decommissioning Plan will be consistent with the regulations in 10 CFR chapter I, and will not be inimical to the common defense and security or to the health and safety of the public. The basis for these findings is set forth in the concurrently issued Safety Evaluation by the Office of Nuclear Reactor Regulation. The staff's No Significant Hazards Consideration Determination, as well as an evaluation of those issues raised in the hearing requests, are also documented in this Safety Evaluation.

The staff concluded that this order should contain conditions relating to three issues addressed in the Safety Evaluation. These issues include fuel disposal, onsite low-level radioactive waste storage, and use of a temporary liquid radwaste system. Therefore, in regard to fuel disposal, the licensee will be required to (1) have the fuel completely removed from the site within the 6 years specified in the Safety Evaluation, consistent with the time period during which the fuel remains onsite for the DECON alternative as described in the Generic Environmental Impact Statement on Decommissioning, NUREG-0586 (GEIS) or (2) suspend the on-going decommissioning, and within 30 days from the end of the allotted time, request NRC approval of a modified decommissioning plan that addresses disposition of irradiated fuel. Similarly, if it appears that onsite low-level radioactive waste storage will exceed the 5 years specified in the Safety Evaluation, the licensee will be required to apply for a license amendment, pursuant to 10 CFR part 30, that addresses storage of low-level radioactive waste. The application for a license amendment must be submitted for NRC review no later than 30 days beyond the end of the 5 year period specified. Finally, the licensee referenced use of a temporary liquid radwaste system during decommissioning. Such a system may not be used until the licensee submits sufficient system design information and the NRC has approved the use of the system.

The staff also added a fourth conditioning to this Order to specify the



method by which changes could be made to the Decommissioning Plan.

#### IV

Accordingly, pursuant to section 103, 161b, 161i, and 161o, of the Atomic Energy Act of 1954, as amended, 10 CFR 50.82, and the Commission's SRM dated June 10, 1992, the licensee's Decommissioning Plan is approved and decommissioning of the Shoreham Nuclear Power Station is authorized subject to the following conditions:

(1) Should the licensee fail to remove all fuel from the 10 CFR part 50 reactor site within 6 years from the date of this Order, the licensee is required to:

(a) Suspend the on-going decommissioning; and

(b) Within 30 days from the end of the 6 year period, request NRC approval of a modified decommissioning plan.

(2) If the licensee is unable to ship all solid radioactive waste offsite within 5 years of the date of this Order, the licensee shall apply for a license amendment, pursuant to 10 CFR part 30, within 30 days from the end of the 5 year period that addresses storage of low-level radioactive waste.

(3) In the event the licensee intends to utilize a temporary liquid radwaste system to complete the decontamination efforts, the licensee shall submit sufficient system design information to the NRC and receive NRC approval of the design prior to dismantlement of the installed liquid radwaste system.

(4) The licensee may make changes to the Decommissioning Plan other than those associated with the above conditions provided that:

(a) Such changes are approved in writing by the onsite review committee;

(b) The Director, Office of Nuclear Material Safety and Safeguards is notified of such changes in writing, and is provided with a copy of the written approval by the onsite review committee, not less than 30 days before such changes are implemented; and

(c) Such changes do not result in an unreviewed safety question or result in environmental impacts different from and exceeding those set forth in the licensee's Supplement to Environmental Report, December 1990.

Changes not meeting the above criteria must be submitted by the licensee to the Director, Office of Nuclear Material Safety and Safeguards for prior NRC review and approval before they may be implemented.

Pursuant to 10 CFR 51.21, 51.30, and 51.35, the Commission has prepared an Environmental Assessment and Finding of No Significant Impact for the proposed action. Based on that Assessment, the Commission has

determined that the proposed action will not result in any significant environmental impact and that an environmental impact statement need not be prepared. The Notice of Issuance of Environmental Assessment and Finding of No Significant Impact was published in the *Federal Register* on June 11, 1992 (57 FR 24832).

#### V

For further details with respect to this action, see: (1) The application for authorization to decommission the facility, dated December 29, 1990, and January 2, 1991, as supplemented August 26, November 27, December 6, 1991, and January 24, 1992; (2) the Commission's related Safety Evaluation; and (3) the Environmental Assessment and Finding of No Significant Impact dated June 5, 1992. These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555, and at the Shoreham-Wading River Public Library, Route 25A, Shoreham, New York 11786. Copies of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects—III/IV/V.

Dated at Rockville, Maryland, this 11th day of June 1992.

For the Nuclear Regulatory Commission.

**Bruce A. Boger,**

*Director, Division of Reactor Projects—III/IV/V, Office of Nuclear Reactor Regulation.*

[FR Doc. 92-14222 Filed 6-16-92; 8:45 am]

BILLING CODE 7590-01-M

## OFFICE OF PERSONNEL MANAGEMENT

### Labor-Management Relations

**AGENCY:** U.S. Office of Personnel Management.

**ACTION:** Notice of opportunity to file comments.

**SUMMARY:** This notice announces a study by the Office of Personnel Management (OPM) of the Federal Service Labor-Management Relations Program, and invites agencies, labor unions, other employee organizations, and interested persons to submit written comments on the scope and methods of the study. The study will examine the overall efficiency and effectiveness of the Federal Service Labor-Management Relations Program, with particular focus on those policy issues that are key to defining the purposes of the Federal Service Labor-Management Relations

Statute and its effect on the operation of Government programs.

**DATES:** Comments and recommendations in response to this notice will be considered if received by July 17, 1992.

**ADDRESSES:** Mail or deliver comments or recommendations to Allan D. Heuerman, Assistant Director for Labor Relations and Workforce Performance, Personnel Systems and Oversight Group, Office of Personnel Management, 1900 E Street, NW., room 7412, Washington, DC 20415-0001.

**SUPPLEMENTARY INFORMATION:** The current Federal Service Labor-Management Relations Program was established under Title VII of the Civil Service Reform Act of 1978 (codified as chapter 71 of title 5, United States Code). Prior to the enactment of the Federal Service Labor-Management Relations Statute, Federal Service Labor-Management Relations were governed by Presidential Executive order.

In enacting the Federal Service Labor-Management Relations Statute, Congress found that labor organizations and collective bargaining in the Federal civil service are in the public interest. The Statute sets forth the rights and obligations of employees, labor organizations, and agencies pertaining to labor-management relations. Congress also created an independent agency, the Federal Labor Relations Authority (FLRA), to carry out the purposes of the Statute.

A variety of studies and assessments, formal and informal, have been made of the Federal Service Labor-Management Relations Program. This includes efforts by Federal employee labor organizations, the FLRA, the Administrative Conference of the U.S. (in its study of Federal dispute resolution procedures), and, most recently, by the General Accounting Office (GAO) in its 1991 report *Federal Labor Relations: A Program in Need of Reform*. Some of these studies have looked broadly at the program as a whole (e.g., the GAO report); others have reviewed a single major aspect of the program (e.g., the Administrative Conference's study of dispute resolution). None of these studies, however, has developed specific proposals for changing the current program, or indicate what would be required to establish a consensus for change.

The Director of OPM, in testifying on the GAO report in November 1991 before the House Post Office and Civil Service Committee, stated that OPM



"would be pleased to participate in studying the Labor-Management Relations Program with a view toward determining the origin and nature of the problems as a basis for considering the extent and character of solutions." She agreed that the program needs a comprehensive review, but noted that there are considerable differences of opinion about problems and solutions, and that it is not clear from the GAO report just what the outcome ought to be.

#### OPM to Conduct Review

Given the concerns that have been raised, the Director decided to initiate a review of the Federal Service Labor-Management Relations Program. The review will examine the overall efficiency and effectiveness of Federal Service Labor-Management Relations, with a particular focus on those issues that deal with the purposes of the Federal Service Labor-Management Relations Statute and its effect on the operation of Government programs.

#### Request for Public Comment

At this preliminary stage, OPM is seeking public comment to assist in planning the scope and method of the review. Specifically, we would like comments on the following questions:

(1) *Issues and Problems:* What specific issues or problems should be addressed by the review? Why are these issues important? (Please address each issue or problem separately.)

(2) *Current Knowledge of Issues and Problems:* What is known about the issues or problems identified? Please identify factual information, documentation, studies or analyses, and experiences that address these issues and problems.

(3) *Areas Where Additional Knowledge is Needed:* What information is generally lacking with respect to the issues and problems identified?

(4) *Methods for Gaining Additional Knowledge:* How do you recommend OPM obtain a broader knowledge and a better understanding of the issues and problems? Please be specific in identifying sources (e.g., published studies or research papers) or proposed methods (e.g., additional research, surveys, focus groups, public hearings).

(5) *Process for Assessing Problems and Reaching Conclusions:* What process should OPM follow (making use of the information gathered in response to items 1 through 4) for assessing indicated problems with the Federal Service Labor-Management Relations Program, and for reaching conclusions with respect to proposed solutions to those problems? Also, within the limits

of current knowledge, what would you suggest as possible solutions to indicated problems?

As the OPM study progresses, we may seek additional public input or comment.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 92-14132 Filed 6-16-92; 8:45 am]

BILLING CODE 5325-01-M

#### POSTAL RATE COMMISSION

[Docket No. A92-13; Order No. 928]

#### Milfay, Oklahoma 74046 (Edith Schiller, Petitioner); Notice and Order Accepting Appeal and Establishing Procedural Schedule

Issued June 11, 1992

Docket Number: A92-13.

Name of Affected Post Office: Milfay, Oklahoma 74046.

Name(s) of Petitioner(s): Edith Schiller.

Type of Determination: Consolidation.

Date of Filing of Appeal Papers: June 8, 1992.

Categories of Issues Apparently Raised:

1. Effect on postal services (39 U.S.C. 404(b)(2)(C)).

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition, in light of the 120-day decision schedule (39 U.S.C. 404(b)(5)), the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the petitioner. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memoranda previously filed.

Docket No. A92-13.

The Commission orders:

(A) The record in this appeal shall be filed on or before June 23, 1992.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the Federal Register.

By the Commission.

Charles L. Clapp,

Secretary.

Docket No. A92-13

#### Appendix

June 8, 1992—Filing of Petition.

June 11, 1992—Notice and Order of Filing of Appeal.

July 6, 1992—Last day for filing of petitions to intervene [see 39 CFR 3001.111(b)].

July 13, 1992—Petitioner's Participant Statement or Initial Brief [see 39 CFR 3001.115 (a) and (b)].

August 3, 1992—Postal Service Answering Brief [see 39 CFR 3001.115(c)].

August 18, 1992—Petitioner's Reply Brief should petitioner choose to file one [see 39 CFR 3001.115(d)].

August 25, 1992—Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [see 39 CFR 3001.116].

October 6, 1992—Expiration of 120-day decisional schedule [see 39 U.S.C. 404(b)(5)].

[FR Doc. 92-14183 Filed 6-16-92; 8:45 am]

BILLING CODE 7710-FW-M

#### SECURITIES AND EXCHANGE COMMISSION

#### Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Boston Stock Exchange, Incorporated

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Hospital Staffing Services, Inc.  
Common Stock, \$.001 Par Value (File No. 7-8537)

International Murex Technologies Corp.  
Common Stock, No Par Value (File No. 7-8538)

Sulcus Computer Corporation  
Common Stock, No Par Value (File No. 7-8539)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before July 2, 1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all



the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,  
Secretary.

[FR Doc. 92-14141 Filed 6-16-92; 8:45 am]

BILLING CODE 8010-01-M

**Self-Regulatory Organizations;  
Applications for Unlisted Trading  
Privileges and of Opportunity for  
Hearing; Midwest Stock Exchange,  
Incorporated**

June 11, 1992.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f-1 thereunder for unlisted trading privileges in the following securities:

- Columbia Laboratories, Inc.  
Common Stock, \$.01 Par Value (File No. 7-8547)
- Hospital Staffing Services, Inc.  
Common Stock, \$.001 Par Value (File No. 7-8548)
- Hubco, Inc.  
Common Stock, No Par Value (File No. 7-8549)
- Aracruz Celulose S.A.  
American Depositary Shares (each representing five shares Class B Stock) (File No. 7-8550)
- Davstar Industries, Ltd.  
Class A Common Stock, No Par Value (File No. 7-8551)
- Nuveen Select Tax Free Income Portfolio 2  
Shares of Beneficial Interest, \$.01 Par Value (File No. 7-8552)
- Santa Fe Energy Resources, Inc.  
7% Convertible Preferred Stock, No Par Value (File No. 7-8553)
- Health Management Associates, Inc.  
Common Stock, \$.01 Par Value (File No. 7-8554)
- Interstate Bakeries Corporation  
Common Stock, \$.01 Par Value (File No. 7-8555)
- Van Kampen Merritt Municipal Opportunity Trust  
Common Shares of Beneficial Interest, \$.01 Par Value (File No. 7-8556)
- Van Kampen Merritt Trust for Investment  
Grade California Municipals  
Common Shares of Beneficial Interest, \$.01 Par Value (File No. 7-8557)
- Westinghouse Electric Corp.  
Depositary Shares (each representing 1/4 share Series B Convertible Preferred Stock, \$1.00 Par Value (File No. 7-8558)
- First Commonwealth Financial Corporation

- Common Stock, \$.00 Par Value (File No. 7-8559)
- Revco D.S., Inc.  
Common Stock, \$.01 Par Value (File No. 7-8560)
- International Thoroughbred Breeders, Inc.  
Common Stock, \$.20 Par Value (File No. 7-8561)
- Valero Natural Gas Partners L.P.  
Common Units of Limited Partnership, No Par Value (File No. 7-8562)
- Sybron Corporation  
Common Stock, \$.01 Par Value (File No. 7-8563)

These securities are listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before July 2, 1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,  
Secretary.

[FR Doc. 92-14140 Filed 6-16-92; 8:45 am]

BILLING CODE 8010-01-M

**Self-Regulatory Organizations;  
Applications for Unlisted Trading  
Privileges and of Opportunity for  
Hearing; Pacific Stock Exchange,  
Incorporated**

June 11, 1992.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f-1 thereunder for unlisted trading privileges in the following securities:

- Aracruz Celulose SA  
American Depositary Shares (representing 5 Shares of Class B Stock) (File No. 7-8540)
- GFC Financial Corporation  
Common Stock, \$.01 Par Value (File No. 7-8541)
- John Nuveen Co.

- Class A Common Stock, \$.01 Par Value (File No. 7-8542)
- National Media Corporation  
Common Stock, \$.01 Par Value (File No. 7-8543)
- Unisys Corporation  
Common Stock, \$.01 Par Value (File No. 7-8544)
- Westinghouse Electric Corporation  
Depositary Share (each representing 1/4 of a share of Series B Conversion Preferred Stock—PERCS, \$1.00 Par Value) (File No. 7-8545)
- WorldCorp, Inc.  
Common Stock, \$1.00 Par Value (File No. 7-8546)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before July 2, 1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,  
Secretary.

[FR Doc. 92-14138 Filed 6-16-92; 8:45 am]

BILLING CODE 8010-01-M

**Self-Regulatory Organizations;  
Applications for Unlisted Trading  
Privileges and of Opportunity for  
Hearing; Philadelphia Stock Exchange,  
Incorporated**

June 11, 1992.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f-1 thereunder for unlisted trading privileges in the following securities:

- Hospital Staffing Services, Inc.  
Common Stock, \$.001 Par Value (File No. 7-8564)
- Aracruz Celulose S.A.  
American Depositary Shares, Class B Stock (File No. 7-8565)



Conagra, Inc.  
Class E Cum. Cv. Voting Pfd. Stock (File No. 7-8566)

Revco D.S., Inc.  
When Issued Common Stock, \$.01 Par Value (File No. 7-8567)

Nuveen Select Tax Free Income Portfolio 2  
Shares of Beneficial Interest, \$.01 Par Value (File No. 7-8568)

Santa Fe Energy Resources, Inc.  
Cv. Pfd. Stock, \$.01 Par Value (File No. 7-8569)

Van Kampen Trust for Investment Grade  
California Municipal  
Common Shares of Beneficial Interest, \$.01 Par Value (File No. 7-8570)

Van Kampen Merritt Municipal Opportunity  
Trust  
Common Shares of Beneficial Interest, \$.01 Par Value (File No. 7-8571)

Westinghouse Electric Corporation  
Depository Shares ("PERCS") (File No. 7-8572)

Interstate Bakeries Corporation  
Common Stock, \$.01 Par Value (File No. 7-8573)

Health Management Associates  
Class A Common Stock, \$.01 Par Value (File No. 7-8574)

Lydall, Inc.  
Common Stock, \$3 1/2 Par Value (File No. 7-8575)

Pacificorp  
Preferred Stock, No Par Value (File No. 7-8576)

Chemical Banking Corporation  
Preferred Stock, \$1 Par Value (File No. 7-8577)

First Commonwealth Financial Corp.  
Common Stock, \$.50 Par Value (File No. 7-8578)

Santander Overseas Bank, Inc.  
Non Cum. Gtd Pfd. Series B, \$25.00 Par Value (File No. 7-8579)

Graham Field Health Products, Inc.  
Common Stock, \$.25 Par Value (File No. 7-8580)

Sybron Corporation  
Common Stock, \$.01 Par Value (File No. 7-8581)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before July 2, 1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,  
Secretary.

[FR Doc. 92-14139 Filed 6-16-92; 8:45 am]

BILLING CODE 8010-01-M

## DEPARTMENT OF STATE

### Defense Trade Advisory Group; Meeting

Pursuant to section 10(a)(1) of the Federal Advisory Committee Act, notice is hereby given of a meeting of the Defense Trade Advisory Group (DTAG) on Friday, July 10, 1992. The open session will take place in the Loy Henderson Auditorium of the U.S. Department of State, 2201 C Street NW., Washington, DC 20520 from 10 a.m. to 12 noon.

The DTAG, established in February 1992 pursuant to the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. app. II), provides a formal mechanism for U.S. government officials, U.S. defense contractors, and other defense trade specialists to consult regularly on issues related to commercial arms sales. These include broad policy and technology transfer issues, as well as regulations and licensing procedures governing U.S. commercial munitions exports.

The agenda will include the following items:

- DTAG structure and officers.
- Objectives and duties.
- Responsibilities of the DTAG members, Chair, and Vice-Chair.
- Administrative procedures.
- Topic discussion and development of a DTAG agenda.

Attendance is open to the general public, but will be limited to the space available. As entry into the State Department is controlled, persons wishing to attend must notify the DTAG Executive Secretariat at least one week before the meeting date. Attendees must provide their date of birth and social security number to the DTAG Secretariat, and must carry a valid photo ID with them to the open session. Entrance to State will be through the Diplomatic ("C" Street) entrance. Department officers will be at the Diplomatic Entrance to escort attendees.

For further information, contact: Marlene Urbina de Breen, DTAG Executive Secretary, U.S. Department of State, PM/DTP—Room 7815 Main State, Washington, DC 20520-7815. Phone (202) 647-3529. Fax: (202) 647-4232/1346.

Dated: June 3, 1992.

Charles A. Duelfer,

Director, Center for Defense Trade, Bureau of Politico-Military Affairs.

[FR Doc. 92-14176 Filed 6-16-92; 8:45 am]

BILLING CODE 4710-25-M

## DEPARTMENT OF TRANSPORTATION

### Cost Guard

[CGD 92-037]

### Bordeaux Railroad Bridge, Cumberland River, Bordeaux, TN

AGENCY: Coast Guard, DOT.

ACTION: Notice of public hearing.

**SUMMARY:** Congress declared the Bordeaux Railroad Bridge an unreasonable obstruction to navigation, eligible for Federal participating funds for alterations under the Truman-Hobbs Act. The Commandant of the Coast Guard has authorized a public hearing to be held by the Commander, Second Coast Guard District, at Bordeaux, Tennessee. The purpose of the hearing is to provide an opportunity for all interested persons to present data, views, and comments orally, or in writing, concerning possible alteration of the railroads bridge across the Cumberland River near Bordeaux, Tennessee.

**DATES:** The public hearing will be held July 15, 1992, commencing at 10 a.m., continuing until all persons in attendance wishing to comment have been heard.

**ADDRESSES:** The hearing will be held in room A-7-61 (7th floor conference room) at the Federal Building Annex, 801 Broadway, Nashville, Tennessee 37203.

**FOR FURTHER INFORMATION CONTACT:** Mr. Roger Wiebusch, Second Coast Guard District, 1222 Spruce Street, St. Louis, Missouri 63103-2398, (314) 539-3724.

**SUPPLEMENTARY INFORMATION:** In the Coast Guard Authorization Act of December 19, 1991 (Pub. L. 102-241), Congress declared the Bordeaux Railroad Bridge across the Cumberland River, mile 185.2, near Bordeaux, Tennessee, an unreasonable obstruction to navigation, eligible for Federal participating funds for alterations under the Truman-Hobbs Act (act of June 21, 1940, as amended; Stat. 497; 33 U.S.C. 511 *et seq.*). The Commandant of the Coast Guard has authorized a public hearing to be held by the Commander, Second Coast Guard District, at Bordeaux, Tennessee. The information presented at this hearing will be used by



the Coast Guard to help determine what alterations are needed to render navigation through the bridge relatively free and unobstructed. All interested parties will have full opportunity to be heard and to present evidence as to what alterations are needed in their opinion, giving due consideration to the needs of rail and river traffic, and environmental concerns. Persons planning to appear and make statements or otherwise present information are requested to notify the Commander, Second Coast Guard District, Bridge Administration Branch, 1222 Spruce Street, St. Louis, Missouri 63103-2398, (314) 539-3724, no later than 48 hours prior to the hearing and indicate the amount of time needed. Depending upon the number of scheduled statements, it may be necessary to limit the amount of time allocated to each person. Any limitation of time allocated to each speaker will be announced at the beginning of the hearing.

Written statements and exhibits may be submitted in place of, or in addition to, oral statements and will be made part of the hearing record. Written statements and exhibits may be delivered at the hearing or mailed in advance to the Commander, Second Coast Guard District, at the above address. Transcripts of the hearing may be ordered for purchase upon request to the court reporting service at the conclusion of the hearing.

The hearing will be held: July 15, 1992, commencing at 10 a.m. Room A-7-61, 7th floor conference room, Federal Building Annex, 801 Broadway, Nashville, Tennessee 37203.

Authority: 33 U.S.C. 513; 33 CFR 116.20.

Dated: June 12, 1991.

W.J. Ecker,

Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 92-19191 Filed 6-16-92; 8:45 am]

BILLING CODE 4910-14-M

#### Maritime Administration

[Docket No. P-007]

#### Lykes Bros. Steamship Co., Inc.; Notice of Application under Section 608 of the Merchant Marine Act, 1936, as Amended

Notice is hereby given that an application, dated June 8, 1992, has been filed for authorization under section 608 of the Merchant Marine Act, 1936, as amended, to transfer the Operating-differential Subsidy Agreement (ODSA), Contract No. MA/MSB-451, of Lykes Bros. Steamship Co., Inc. (Lykes) to Louisiana Vessel Management, Inc.

(LVM). Lykes advises that LVM is a company currently being formed as a subsidiary of Lykes. It is contemplated that upon approval of the transfer, all of the stock of LVM will be sold to new shareholders.

LVM will be a 100 percent United States citizen-owned entity totally separate from Lykes and have no shareholders, directors, officers or employees in common with Lykes. Lykes' parent, or any of Lykes' affiliates, LVM will become the bareboat charterer of all the vessels now operated by Lykes; and LVM will operate those vessels in the liner services covered by the ODSA consistent with all the terms and conditions thereof. The vessels will be managed by skilled, experienced personnel, many of whom have been engaged in the maritime industry for decades. LVM will also maintain the labor contracts applicable to the covered vessels.

Approval of the Maritime Administration for the requested transfer is required under section 608 of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1178). The Maritime Administration is allowing public comment solely as a matter of discretion for the purpose of protecting the Government's interest in performance of the ODSA.

This application may be inspected in the Office of the Secretary, Maritime Administration. Any person, firm, or corporation desiring to express views thereon, may file written comments in triplicate with the Secretary, Maritime Administration, room 7300, 400 Seventh Street, SW., Washington, DC 20590. Comments must be received no later than 5 p.m. on June 26, 1992. The Maritime Administration will consider any comments submitted.

(Catalog of Federal Domestic Assistance Program No. 20.804 Operating-differential Subsidies).

By Order of the Maritime Administrator/  
Maritime Subsidy Board.

Dated: June 12, 1992.

Joel C. Richard,

Assistant Secretary.

[FR Doc. 92-14308 Filed 6-15-92; 10:24 am]

BILLING CODE 4910-81-M

#### National Highway Traffic Safety Administration

[Docket No. T84-01; Notice 28]

#### Final Passenger Motor Vehicle Theft Data for 1990

AGENCY: National Highway Traffic  
Safety Administration (NHTSA), DOT.

**ACTION:** Publication of final theft data for 1990.

**SUMMARY:** The Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2021 *et seq.*) provides that NHTSA shall periodically publish passenger motor vehicle theft data for review and comment. The periodic publication of these theft data does not have any effect on the obligations or regulated parties under the Cost Savings Act. These theft data serve only to inform the public of the extent of the motor vehicle theft problem. NHTSA has previously published 1990 theft data for public review and comment. After evaluating those public comments, the agency has made some changes to the previously published 1990 data. This notice informs the public of those minor changes and of this agency's final calculations of 1990 theft data.

#### FOR FURTHER INFORMATION CONTACT:

Ms. Barbara Gray, Office of Market Incentives, NHTSA, 400 Seventh Street SW., Washington, DC 20590. Ms. Gray's telephone number is (202) 366-1740.

#### SUPPLEMENTARY INFORMATION:

NHTSA's Federal motor vehicle theft prevention standard (49 CFR part 541) applies to cars that are in lines designated as "high theft lines." Whether a car line is a high theft line depends, as required by the Cost Savings Act, on the relationship of the line's actual or likely theft rate to the median theft rate for car lines in 1983 and 1984. Section 603(b)(3) of the Cost Savings Act (15 U.S.C. 2033(b)(3)) sets forth the steps NHTSA had to follow in making its determination of the median theft rate for 1983 and 1984. The agency followed those steps, published final theft data for the 1983 and 1984 car lines, and made a determination of the median theft rate for those years. (See 50 FR 46666; November 12, 1985.)

Section 603(b)(3) of the Cost Savings Act also provides that NHTSA shall "periodically" publish theft data from later calendar years for public review and comment. These publications of theft data for subsequent model years have no effect on the determination of whether a car line is or should be subject to the requirements of the theft prevention standard. The agency believes that the reason Congress directed it to periodically publish theft data for later years was to inform the public, particularly law enforcement groups, automobile manufacturers, and the Congress, of the extent of the vehicle theft problem and the impact, if any, on vehicle thefts of the Federal motor vehicle theft prevention standard.



Pursuant to this directive, on November 4, 1991 (56 FR 56330), NHTSA published for public review and comment the theft rates for calendar year 1990. The theft rates were based on information provided to NHTSA by the National Crime Information Center (NCIC) of the Federal Bureau of Investigation (FBI).

In response to the November 1991 notice, the agency received comments from Fiat Auto R&D U.S.A. (Fiat), Mazda (North America), Inc. (Mazda), Mercedes-Benz of North America, Inc. (Mercedes-Benz), and Nissan Research and Development, Inc. (Nissan). In its comments, all four manufacturers provided updated production figures for their car lines. Mercedes-Benz also provided production information for an additional car line, the 350 SDL, that was available for sale in the U.S. in 1990. The 350 SDL was not listed in NHTSA's November 1991 notice. There were no thefts of the 350 SDL in 1990.

The updated production figures from the four manufacturers affected the theft rates of the car lines of each manufacturer as follows:

For the Fiat car lines, the Alpha Romeo Spider Veloce 2000, formerly ranked no. 131 with a theft rate of 2.1854 (thefts/production) is now no. 146, with a theft rate of 0.8137. The Ferrari Testarossa, formerly ranked no. 99 with a theft rate of 3.3333, is now no. 116, with a theft rate of 2.6247.

For the Mazda car lines, the Mazda 626/MX-6, formerly ranked no. 1 with a theft rate of 18.8365, is now no. 43, with a theft rate of 5.5999. The Mazda RX-7, formerly no. 2 with a theft rate of 17.6773, is now no. 21, with a theft rate of 7.4811. The Miata MX-5, formerly no. 71 with a theft rate of 4.4238, is now no. 100, with a theft rate of 3.0624. The Mazda 323, formerly no. 80 with a theft rate of 4.1634, is now no. 81, with a theft rate of 4.1041. The Mazda 929, formerly no. 135 with a theft rate of 2.0517, is now no. 134, with a theft rate of 2.0453.

For the Mercedes-Benz car lines, the 300 CE, formerly no. 17 with a theft rate of 8.2531, is now no. 15, with a theft rate of 8.2493. The 190 E, formerly no. 65 with a theft rate of 4.6486, is now no. 66, with a theft rate of 4.6502. The 300 SL, formerly no. 75 with a theft rate of 4.3103, is now no. 76, with a theft rate of 4.2702. The 300 SEL, no. 91 with a theft rate of 3.7901, is still ranked no. 91, but with a theft rate of 3.7934. The 500 SL, formerly no. 100 with a theft rate of 3.2573, is now no. 109, with a theft rate of 2.8199.

The 300 D/E, formerly ranked no. 102 with a theft rate of 3.1582, is now no. 99, with a theft rate of 3.1665. The 560 SEL, formerly no. 105 with a theft rate of 2.9240, is now no. 104 with a 2.9233. The 300 TE, formerly no. 107 with a theft rate of 2.8769, is now no. 103, with a theft rate of 2.9638. The 420 SEL, formerly no. 110 with a theft rate of 2.8319, is now no. 108, with a theft rate of 2.8304.

For the Nissan car lines, the Nissan 300 ZX, formerly ranked no. 5 with a theft rate of 12.4601, is now ranked no. 3, with a theft rate of 12.4479. The Sentra, formerly ranked no. 36 with a theft rate of 6.1780, is now no. 44, with a theft rate of 5.5523. The 240 SX, ranked no. 51 with a theft rate of 5.1269, remains no. 51 with a theft rate of 5.1170. The Maxima, formerly ranked no. 81, with a theft rate of 4.1240, is now no. 59, with a theft rate of 4.9329.

The Stanza, formerly ranked no. 101 with a theft rate of 3.2454, is now no. 83, with a theft rate of 4.0073. The Axxess, ranked no. 121 with a theft rate of 2.5018, remains at no. 121 with a theft rate of 2.5008. The Infiniti M30, formerly ranked no. 112 with a theft rate of 2.7525, is now no. 113, with a theft rate of 2.8788. The Infiniti Q45 formerly no. 139 with a theft rate of 1.7227, is now no. 138 with a theft rate of 1.7219.

The following list represents NHTSA's calculation of theft rates for all 1990 car lines. As noted above, this list is only intended to inform the public of 1990 motor vehicle theft experience, and does not have any effect on the obligations of regulated parties under the Cost Savings Act.

Authority: 15 U.S.C. 2033; delegation of authority at 49 CFR 1.50.

Issued: June 11, 1992.

Frederick H. Grubbe,  
Deputy Administrator.

#### MODEL YEAR 1990 THEFT RATES FOR CAR LINES PRODUCED IN CALENDAR YEAR 1990

Manufacturer	Make/Model (line)	Thefts 1990	Production (mfg's)	Theft rate (1990 thefts per 1,000 cars produced)
1. Ford Motor Co.	Ford Mustang	1,622	115,812	14.0044
2. Volkswagen	Cabriolet	117	8,671	13.4933
3. Nissan	300ZX	484	38,882	12.4479
4. Toyota	Supra	72	6,200	11.6129
5. General Motors	Cadillac Seville	319	32,348	9.8621
6. Porsche	928	4	414	9.6618
7. General Motors	Cadillac Brougham	302	32,052	9.4222
8. General Motors	Geo Metro	259	28,029	9.2404
9. General Motors	Chevrolet Camaro	300	33,200	9.0361
10. Mercedes-Benz	560SEC	13	1,446	8.9903
11. General Motors	Pontiac Grand Am	1,640	189,150	8.6704
12. General Motors	Pontiac Firebird	164	19,157	8.5608
13. Mitsubishi	Galant/Sigma	319	37,490	8.5089
14. BMW	3	149	17,517	8.5060
15. Mercedes-Benz	300CE	18	2,182	8.2493
16. General Motors	Chevrolet Corvette	181	22,034	8.2146
17. General Motors	Pontiac Sunbird	847	106,960	7.9188
18. Chrysler Corp.	Dodge Shadow	563	72,776	7.7361
19. Mitsubishi	Mirage	461	60,040	7.6782
20. Chrysler Corp.	LeBaron	648	86,571	7.4852
21. Mazda	RX-7	79	10,560	7.4811
22. Audi	Coupe Quattro	10	1,349	7.4129
23. Volvo	780	7	945	7.4074
24. Porsche	911	34	4,609	7.3769
25. Chrysler Corp.	Plymouth Sundance	451	61,366	7.3493
26. Volkswagen	Jetta	344	48,085	7.1540
27. Ford Motor Co.	Ford Probe	776	110,201	7.0417
28. General Motors	Buick Reatta	58	8,431	6.8794
29. General Motors	Chevrolet Caprice	373	55,152	6.7631
30. General Motors	Pontiac Bonneville	506	75,655	6.6883



## MODEL YEAR 1990 THEFT RATES FOR CAR LINES PRODUCED IN CALENDAR YEAR 1990—Continued

Manufacturer	Make/Model (line)	Thefts 1990	Production (mfr's)	Theft rate (1990 thefts per 1,000 cars produced)
31. Honda	Prelude	384	60,000	6.4000
32. Chrysler Corp.	Chrysler's TC	12	1,894	6.3358
33. General Motors	Buick Skylark	523	83,666	6.2510
34. General Motors	Geo Prizm	1,058	170,253	6.2143
35. Ford Motor Co.	Lincoln Mark VII	129	21,658	5.9562
36. BMW	5	132	22,479	5.8721
37. Ford Motor Co.	Ford Thunderbird	609	104,847	5.8085
38. General Motors	Chevrolet Cavalier	1,524	263,199	5.7903
39. General Motors	Oldsmobile Cutlass Calais	507	88,229	5.7464
40. General Motors	Pontiac 6000	300	52,352	5.7304
41. Chrysler Corp.	Plymouth Acclaim	550	96,371	5.7071
42. Ford Motor Co.	Ford Escort	1,061	188,146	5.6392
43. Mazda	626/MX-6	543	96,966	5.5999
44. Nissan	Sentra	907	163,355	5.5523
45. General Motors	Oldsmobile 98/Touring	323	58,444	5.5267
46. Volkswagen	Golf/GTI	77	13,952	5.5189
47. Chrysler Corp.	Dodge Dynasty	524	96,448	5.4330
48. Mitsubishi	Precis	17	3,210	5.2960
49. Chrysler Corp.	Dodge Spirit	433	82,567	5.2442
50. Mitsubishi	Eclipse	392	74,820	5.2392
51. Nissan	240SX	310	60,582	5.1170
52. General Motors	Geo Storm	378	74,501	5.0738
53. Toyota	Corolla/Corolla Sport	1,104	218,200	5.0596
54. General Motors	Buick Electra/LeSabre Estate Wagon	38	7,524	5.0505
55. General Motors	Oldsmobile Custom Cruiser Wagon	18	3,573	5.0378
56. Sterling	Sterling 827	6	1,201	4.9958
57. Chrysler Corp.	Chrysler Laser	259	52,239	4.9580
58. Honda	Accord	1,896	382,800	4.9530
59. Nissan	Maxima	546	110,685	4.9329
60. Chrysler Corp.	Dodge Daytona	191	38,752	4.9288
61. Toyota	Terrel	416	86,200	4.8260
62. Chrysler Corp.	Eagle Premier	60	12,563	4.7759
63. General Motors	Oldsmobile Cutlass Ciera	597	126,321	4.7261
64. Ford Motor Co.	Ford Tempo	1,025	218,975	4.6809
65. Chrysler Corp.	Eagle Talon	119	25,554	4.6568
66. Mercedes-Benz	190E	43	9,247	4.6502
67. Honda/Acura	Legend	345	75,400	4.5756
68. Hyundai	Excel	418	91,995	4.5437
69. Volkswagen	Corrado	50	11,034	4.5314
70. Ford Motor Co.	Mercury Cougar	343	76,580	4.4790
71. Chrysler Corp.	Dodge Omni	74	16,523	4.4786
72. Ford Motor Co.	Lincoln Town Car	631	142,648	4.4235
73. General Motors	Chevrolet Beretta	397	90,981	4.3635
74. General Motors	Oldsmobile Delta 88 Royale	455	105,508	4.3125
75. BMW	7	47	10,917	4.3052
76. Mercedes-Benz	300SL	11	2,576	4.2702
77. Chrysler Corp.	Chrysler New Yorker Fifth Ave./Imperial	234	54,971	4.2568
78. General Motors	Buick Electra Park Avenue	197	46,360	4.2494
79. General Motors	Pontiac Lemans	154	36,626	4.2047
80. Chrysler Corp.	Eagle Summit	40	9,733	4.1097
81. Mazda	323	305	74,316	4.1041
82. General Motors	Buick Century	504	123,893	4.0680
83. Nissan	Stanza	318	79,356	4.0073
84. Chrysler Corp.	Plymouth Horizon	63	15,920	3.9573
85. General Motors	Buick LeSabre	601	152,967	3.9290
86. General Motors	Cadillac Allante	12	3,055	3.9280
87. Toyota	Camry	1,081	275,600	3.9224
88. Ford Motor Co.	Mercury Topaz	285	73,208	3.8930
89. Toyota	Celica	320	83,800	3.8186
90. General Motors	Cadillac Fleetwood/Deville	650	170,517	3.8119
91. Mercedes-Benz	300SEL	13	3,427	3.7934
92. General Motors	Chevrolet Corsica	629	168,855	3.7251
93. Honda/Acura	Integra	492	132,780	3.7054
94. General Motors	Oldsmobile Cutlass Supreme	389	106,705	3.6456
95. Chrysler Corp.	Dodge Monaco	24	6,718	3.5725
96. Subaru	Loyale	50	14,097	3.5469
97. Hyundai	Sonata	76	21,822	3.4827
98. General Motors	Pontiac Grand Prix	384	110,549	3.4736
99. Mercedes-Benz	300D/E	57	18,001	3.1665
100. Mazda	MX-5 Miata	160	52,247	3.0624
101. Ford Motor Co.	Mercury Sable	282	93,126	3.0282
102. Ford Motor Co.	Ford Festiva	142	47,449	2.9927
103. Mercedes-Benz	300TE	5	1,687	2.9638
104. Mercedes-Benz	560SEL	12	4,105	2.9233
105. Toyota	Cressida	36	12,500	2.8800
106. General Motors	Buick Regal	154	53,571	2.8747
107. Audi	80/90	26	9,171	2.8350
108. Mercedes-Benz	420SEL	16	5,653	2.8304



## MODEL YEAR 1990 THEFT RATES FOR CAR LINES PRODUCED IN CALENDAR YEAR 1990—Continued

Manufacturer	Make/Model (line)	Thefts 1990	Production (mfr's)	Theft rate (1990 thefts per 1,000 cars produced)
109. Mercedes-Benz	500SL	8	2,837	2.8199
110. General Motors	Chevrolet Celebrity	81	29,271	2.7672
111. Volvo	740	151	55,178	2.7366
112. Ford Motor Co	Ford Crown Victoria	156	57,680	2.7046
113. Nissan	Infiniti M30	20	7,466	2.6788
114. General Motors	Chevrolet Lumina	790	296,720	2.6624
115. Honda	Civic	756	287,000	2.6341
116. Ferrari	Testarossa	1	381	2.6247
117. General Motors	Oldsmobile Toronado/Trofeo	38	14,480	2.6243
118. Suzuki	Swift	20	7,671	2.6072
119. Jaguar	XJ-S	14	5,407	2.5892
120. Volkswagen	Passat	44	17,427	2.5248
121. Nissan	Axxess	45	17,994	2.5008
122. General Motors	Cadillac Eldorado	54	21,764	2.4812
123. Ford Motor Co	Ford Taurus	745	309,211	2.40942
124. Ford Motor Co	Mercury Grand Marquis	169	70,633	2.3926
125. Volkswagen	Fox	60	25,745	2.3905
126. Saab	900	33	14,517	2.2732
127. Saab	9000	13	5,732	2.2680
128. Ford Motor Co	Lincoln Continental	139	62,657	2.2184
129. Volvo	240	80	36,357	2.2004
130. Subaru	Legacy	89	40,886	2.1875
131. Daihatsu	Charade	26	12,430	2.0917
132. Porsche	944	6	2,886	2.0790
133. Chrysler Corp	Plymouth Colt/Colt Vista	25	12,183	2.0520
134. Mazda	929	37	18,090	2.0453
135. Toyota	Lexus LS400	82	40,600	2.0197
136. Volvo	760	18	9,554	1.8840
137. Toyota	Lexus ES250	35	19,600	1.7857
138. Nissan	Infiniti Q45	20	11,615	1.7219
139. Jaguar	XJ-6	26	15,316	1.6976
140. Chrysler Corp	Dodge Colt/Colt Vista	23	13,744	1.6735
141. Mercedes-Benz	300SE	8	5,545	1.4427
142. General Motors	Buick Rivera	29	21,982	1.3193
143. Audi	100/200	16	13,777	1.1614
144. Subaru	Justy	6	5,482	1.0945
145. General Motors	Chevrolet Sprint	1	1,171	0.8540
146. Alfa Romeo	Spider Veloce 2000	2	2,458	0.8137
147. Peugeot	505	0	2	0.0000
148. General Motors	Oldsmobile Cutlass Cruiser	0	8,891	0.0000
149. Isuzu	Impulse	0	4,772	0.0000
150. Ferrari	Mondial	0	98	0.0000
151. Nissan	Pulsar	0	1,168	0.0000
152. Yugo	GV/GVX/GVL/GVS	0	1,323	0.0000
153. Peugeot	405	0	686	0.0000
154. Rolls-Royce/Bentley	Bentley Eight	0	24	0.0000
155. Rolls-Royce/Bentley	Silver Spirit/Silver Spur	0	180	0.0000
156. Rolls-Royce/Bentley	Bentley Turbo R	0	200	0.0000
157. Mercedes-Benz	350SDL	0	855	0.0000
158. General Motors	Buick Skyhawk	0	4	0.0000
159. Lotus	Esprit	0	400	0.0000
160. Ferrari	348	0	381	0.0000
161. Rolls-Royce/Bentley	Corniche/Continental/Mulsanne	0	141	0.0000
162. Maserati	430/228	0	18	0.0000
163. Maserati	Spyder	0	26	0.0000

[FR Doc. 92-14144 Filed 6-16-92; 8:45 am]

BILLING CODE 4910-59-M

**Research and Special Programs Administration****Office of Hazardous Materials Safety: Applications for Modification of Exemptions or Applications to Become a Party to an Exemption****AGENCY:** Research and Special Programs Administration, DOT.**ACTION:** List of applications for modification of exemptions or

applications to become a party to an exemption.

**SUMMARY:** In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of

application have been shown in earlier **Federal Register** publications, they are not repeated here. Requests for modifications of exemptions (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix "X" denote a modification request. Application numbers with the suffix "P" denote a party to request. These applications have been separated from the new applications for exemptions to facilitate processing.



**DATES:** Comments must be received on or before July 2, 1992.

**ADDRESS COMMENTS TO:** Dockets Unit, Research and Special Programs, Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

**FOR FURTHER INFORMATION CONTACT:**

Copies of the applications are available for inspection in the Dockets Unit, room 8426, Nassif Building, 400 7th Street SW., Washington, DC.

Application No.	Applicant	Renewal of exemption
6754-X	Air Products Chemicals, Inc., Gardner Cryogenic Di, Lehigh Valley, PA (See Footnote 1).	6765
9485-X	Chem-Tech, Limited, Des Moines, IA (See Footnote 2).	9485
9491-X	Air Products and Chemicals, Inc., Allentown, PA (See Footnote 3).	9491
9884-X	Puritan-Bennett Corporation, Indianapolis, IN (See Footnote 4).	9884
10288-X	Air Products and Chemicals, Inc., Allentown, PA (See Footnote 5).	10288

(1) To authorize use of a 11,000 gallon non-DOT specification portable tank with a design pressure of 151 psig for shipment of Helium, refrigerated liquid.

(2) To modify exemption to provide for flammable gas as an additional Class of material for transportation in DOT Specification 4BA 240 cylinders.

(3) To modify the exemption to include DOT 3A and 3AA cylinders as additional authorized packaging for transporting various compressed gases.

(4) To add additional pressure vessels comparable to those currently authorized for shipment of oxygen, refrigerated liquid, classed as a nonflammable gas.

(5) To modify exemption to provide for additional tank cars for transporting various hazardous materials classed as flammable liquids.

Application No.	Applicant	Parties to exemption
4453-P	ICI Explosives USA Inc., Dallas, TX	4453

Application No.	Applicant	Parties to exemption
5206-P	ICI Explosives USA Inc., Dallas, TX	5206
5704-P	United Technologies Corp./Chemical Systems Div., San Jose, CA	5704
6325-P	ICI Explosives USA Inc., Dallas, TX	6325
6759-P	ICI Explosives USA Inc., Dallas, TX	6759
6971-P	Chromatography Research Supplies, Inc., Addison, IL	6971
7716-P	ICI Explosives USA Inc., Dallas, TX	7716
8426-P	Northwest EnviroService, Inc., Seattle, WA	8426
8453-P	ICI Explosives USA Inc., Dallas, TX	8453
8538-P	ICI Explosives USA Inc., Dallas, TX	8538
8554-P	ICI Explosives USA Inc., Dallas, TX	8554
8645-P	C & K Coal, Clarion, PA	8645
8723-P	ICI Explosives USA Inc., Dallas, TX	8723
8815-P	ICI Explosives USA Inc., Dallas, TX	8815
8845-P	Owen Oil Tools, Inc., Fort Worth, TX	8845
8958-P	Petro-Explo, Inc., Arlington, TX	8958
9101-P	Southern Air Transport, Inc., Virginia Gardens, FL	9101
9108-P	ICI Explosives USA Inc., Dallas, TX	9108
9275-P	Calvin Klein Cosmetics Company, Mount Olive, NJ	9275
9346-P	Marsulex Inc., North York, Ontario, Canada	9346
9348-P	DC Battery Products, St. Paul, MN	9348
9377-P	ICI Explosives USA Inc., Dallas, TX	9377
9481-P	ICI Explosives USA Inc., Dallas, TX	9481
9623-P	ICI Explosives USA Inc., Dallas, TX	9623
9750-P	ICI Explosives USA Inc., Dallas, TX	9750
10001-P	Huber Supply Co., Inc., Mason City, IA	10001
10247-P	Thermedics Inc., Woburn, MA	10247
10303-P	Alaska Air Guides, Inc., Anchorage, AK	10303
10789-P	DXI Industries, Inc., Houston, TX	10789
1789-P	DX Systems Company, Houston, TX	10789

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in

accordance with part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on June 10, 1992.

**J. Suzanne Hedgepeth,**  
Chief, Exemptions Branch, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 92-14135 Filed 6-16-92; 8:45 am]

BILLING CODE 4910-80-M

**Research and Special programs Administration**

**Office of Hazardous Materials Safety; Applications for Exemptions**

**AGENCY:** Research and Special Programs Administration, DOT.

**ACTION:** List of applicants for exemptions.

**SUMMARY:** In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor Vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

**DATES:** Comments must be received on or before July 17, 1992.

**ADDRESS COMMENTS TO:** Dockets Branch, Research and Special Program, Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

**FOR FURTHER INFORMATION:** Copies of the applications are available for inspection in the Dockets Branch, room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

**NEW EXEMPTIONS**

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10782-N	American Cryogas Industries, Pennsauken, NJ	49 CFR 174.67(i) and (j)	To authorize tank cars containing carbon dioxide refrigerated liquid, nonflammable compressed gas to remain connected during unloading without the physical presence of an unloader. (mode 2)



## NEW EXEMPTIONS—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10786-N	Puerto Rico Maritime Shipping Authority, Pucble Viejo, Guaynabo, PR.	49 CFR 176.905(k)	To authorize the transportation of vehicles with gasoline in their tanks in closed freight containers, with or without ramps, with connected battery cables equipped with wire seals. (mode 2)
10787-N	Emery Worldwide Airlines, Vandalia, OH	49 CFR 172.101, 172.204(c)(3), 173.27, 173.54(j), 175.30(a)(1), 175.320(b), 175.75 Part 107, Appendix B.	To authorize the transportation of Class A, B and C explosives that are not permitted for shipment by air, or are in quantities greater than those prescribed for shipment by air. (mode 4)
10788-N	P.S.I. Plus, Inc., Middletown, CT	49 CFR 173.302(a)(1), 175.3, 178.65-2, 178.65-5(a)(4).	To authorize the manufacture, mark and sell of non-DOT specification non-refillable steel inside cylinder for use in transporting nonflammable gases. (modes 1, 2, 3, 4, 5)
10789-N	DPC Industries, Inc., Houston, TX	49 CFR 173.304(a)(2), 173.34(d) and (e)	To authorize the use of non-DOT specification full open head, steel salvage cylinder for overpacking damaged or leaking chlorine cylinders. (mode 1)
10790-N	Kalitta Flying Service, Inc., Ypsilanti, MI	49 CFR 172.101, 172.204(c)(3), 173.27, 173.54(j), 175.30(a)(1), 175.320(b), 175.75, Part 107, Appendix B.	To authorize the transportation of Class A, B and C explosives that are not permitted for shipment by air, or are in quantities greater than those prescribed for shipment by air. (mode 4)
10791-N	Con-Quest Products, Inc., Elk Grove Village, IL	49 CFR 173.12(b)(1)	To authorize the manufacture, mark and sell of a non-DOT specification tri-wall corrugated container with a polyethylene inner base for use as a lab pack outer package for transporting various classes of material. (mode 1)
10793-N	Witco Corporation, Marshall, TX	49 CFR 173.225	To authorize an alternative cargo tank design for shipment of certain organic peroxides classed as flammable liquid. (mode 1)
10794-N	LND, Inc., Oceanside, NY	49 CFR 173.302, 175.3	To authorize the use of non-DOT specification containers described as hermetically sealed electron tube device for transporting various nonflammable gases. (modes 1, 4, 5)
10795-N	Mobil Oil Corporation, Fairfax, VA	49 CFR 173.31(b)(1), 174.67(a)(7)	To authorize an alternative method of blocking wheels of each car of unit train during loading and unloading and requirement to open bottom discharge outlet caps of each car during loading of gasoline and fuel oil. (mode 2)
10796-N	GE Aerospace, King of Prussia, PA	49 CFR 173.416(c), Part 107, Appendix B to Subpart B, Paragraph 1.	To authorize a one-time domestic shipment of two packages of radioactive materials which are certified for import and export shipment only. (mode 1)
10797-N	Monroe Auto Equipment Company, Monroe, MI	49 CFR 171.8, 172.101	To authorize the transportation of various types of two-tube gas-pressurized shock absorbers and struts to be classed as ORM-D commodity instead of compressed gas. (modes 1, 2, 3, 4, 5)
10798-N	Olin Corporation, Stamford, CT	49 CFR 174.67 (i) and (j)	To authorize chlorine filled tank cars to remain connected during unloading without the physical presence of an unloader. (mode 2)
10799-N	ESM II, Inc., Niagara Falls, NY	49 CFR 172.331, 173.154, 173.164, 173.178, 173.182, 173.204, 173.217, 173.234, 173.245(b), 173.66.	To authorize the shipment of certain hazardous materials in internally-coated polypropylene flexible intermediate bulk containers. (modes 1, 2, 3)
10800-N	Aviation Charter, Inc., Eden Prairie, MN	49 CFR 172.181, 172.204(c)(3), 173.27, 175.30(a)(i), 175.320(b), 175.75.	To authorize the transportation of Class A, B, and C explosives that are not permitted for shipment by air, or are in quantities greater than those prescribed for shipment by air. (mode 4)
10801-N	Pipe Welding Supply Co., Inc., Liverpool, NY	49 CFR 174.67 (i) and (j)	To authorize tank cars containing carbon dioxide, refrigerated liquid, classed as non-flammable gas to remain connected during unloading without the physical presence of an unloader. (mode 2)
10802-N	Air Products and Chemicals, Inc., Allentown, PA	49 CFR 173.302(f)	To authorize the transportation of carbon monoxide and carbon monoxide mixture classed as flammable and nonflammable gases in DOT 3AL cylinders with service pressures up to and including 3000 psig. (modes 1, 2, 4)
10803-N	Western Electric Corporation, Pittsburgh, PA	49 CFR 172.203(a) 177.834(1), (2)(i)	To authorize the manufacture, mark and sell of a cargo heater to transport flammable liquids or flammable gases and the elimination of the shipping paper requirement. (mode 1)
10804-N	PPG Industries, Inc., Pittsburgh, PA	49 CFR 173.31(d)	To authorize the one-time shipment of four multi-unit tank car tanks containing phosgene, classed as a poisonous gas, which are overdue for hydrostatic pressure test. (mode 1)
10805-N	Landers Propane, Higgins, TX	49 CFR 173.315	To authorize the transport of propane, classed as a flammable gas in non-DOT specification cargo tanks. (mode 1)
10806-N	First Brands Corporation, Danbury, CT	49 CFR 173.306-3(i)	To authorize the transportation of DOT Specification 2Q aerosol tire inflator and sealer containers fitted with a vented dome with a release pressure of 225 psig at 130 degrees. (mode 1)
10807-N	U.S. Environmental Protection Agency, New York, NY	49 CFR 173.403	To authorize the bulk shipment of solids debris contaminated with a radioactive material from superfund clean-up site to a disposal facility. (mode 1)



## NEW EXEMPTIONS—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10809-N	Enviro Pax, Inc., W. Caldwell, NJ	49 CFR 173.245b, 173.365	To authorize the manufacture, mark and sell of a non-DOT specification bulk fiberboard box for shipment of certain corrosive and poison B solids, n.o.s. (modes 1, 2)
10810-N	U.S. Department of the Army, Kingsport, TN.	49 CFR 173.62(E-6(a), (b))	To authorize shipment of RDX, HMX and RDX/HMX mixtures, classed as 1.1D to be shipped wetted with 10% water and 5% alcohol instead of the required 15% water. (modes 1, 2)

This notice of receipt of applications for new exemptions is published in accordance with part 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on June 10, 1992.

J. Suzanne Hedgepeth,  
Chief, Exemptions Branch, Office of  
Hazardous Materials Exemptions and  
Approvals.

[FR Doc. 92-14137 Filed 6-16-92; 8:45 am]

BILLING CODE 4910-60-M

## DEPARTMENT OF THE TREASURY

Public Information Collection  
Requirements Submitted to OMB for  
Review

Date: June 11, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

## Internal Revenue Service

OMB Number: 1545-0159.

Form Number: IRS Form 3520.

Type of Review: Extension.

Title: Creation of or Transfers to Certain Foreign Trusts.

Description: Form 3520 is filed by U.S. persons who create a foreign trust or transfer property to a foreign trust.

IRS uses Form 3520 to establish the identity of the U.S. person and to determine if the transfer is subject to the excise tax.

Respondents: Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents/  
Recordkeepers: 500.

Estimated Burden Hours Per

Respondent/Recordkeeper:

Recordkeeping—5 hours, 44 minutes

Learning about the law or the form—  
35 minutes

Preparing and sending the form to the  
IRS—43 minutes

Frequency of Response: Annually.

Estimated Total Reporting/

Recordkeeping Burden: 3,525 hours.

Clearance Officer: Garrick Shear (202)  
535-4297, Internal Revenue Service,  
room 5571, 1111 Constitution Avenue,  
NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202)  
395-6880, Office of Management and  
Budget, room 3001, New Executive  
Office Building, Washington, DC  
20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 92-14165 Filed 6-16-92; 8:45 am]

BILLING CODE 4830-01-M

Public Information Collection  
Requirements Submitted to OMB for  
Review

Date: June 11, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this

information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

## Internal Revenue Service

OMB Number: 1545-1199.

Form Number: None.

Type of Review: Reinstatement.

Title: Confidentiality and Privacy Study.

Description: The proposed 1992-1995 IRS/BLS "Confidentiality and Privacy Study" will investigate a number of dimensions of commonly used information collection, protection and disclosure terms, e.g., concepts of "confidentiality" and "privacy", and the potential impact of respondents' understanding and interpretation of those terms on participatory behavior in a survey research setting.

Respondents: Individuals or households, Federal agencies or employees.

Estimated Number of Respondents: 600.

Estimated Burden Hours Per

Respondent: 1 hour, 30 minutes.

Frequency of Response: Other (one-time study/studies).

Estimated Total Reporting Burden: 600 hours.

Clearance Officer: Garrick Shear (202)  
535-4297, Internal Revenue Service,  
room 5571, 1111 Constitution Avenue,  
NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202)  
395-6880, Office of Management and  
Budget, room 3001, New Executive  
Office Building, Washington, DC  
20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 92-14166 Filed 6-16-92; 8:45 am]

BILLING CODE 4830-01-M



# Sunshine Act Meetings

Federal Register

Vol. 57, No. 117

Wednesday, June 17, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

## FARM CREDIT ADMINISTRATION

Farm Credit Administration Board;  
Regular Meeting

**SUMMARY:** Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), that the July 9, 1992 regular meeting of the Farm Credit Administration Board (Board) will not be held and that a special meeting of the Board is scheduled for Thursday, July 16, 1992. An agenda for this meeting will be published at a later date.

**FOR FURTHER INFORMATION CONTACT:** Curtis M. Anderson, Secretary to the Farm Credit Administration Board, (703) 883-4003, TDD (703) 883-4444.

**ADDRESS:** Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090.

Dated: June 15, 1992.

Curtis M. Anderson,  
Secretary, Farm Credit Administration Board.

[FR Doc. 92-14385 Filed 6-15-92; 2:40 pm]

BILLING CODE 6705-01-M

**FEDERAL HOUSING FINANCE BOARD**  
"FEDERAL REGISTER" CITATION OF  
PREVIOUS ANNOUNCEMENT: 57 FR 21446,  
May 20, 1992.

**PREVIOUS ANNOUNCED TIME AND DATE**  
**OF THE MEETING:** 9:00 a.m. Wednesday,  
May 27, 1992.

**CHANGES IN THE MEETING:** The following  
topic was added to the agenda during  
the open portion of the meeting.

Housing Finance AHP/CIP Policy  
Discussion.

The following topic was added to the  
agenda during the closed portion of the  
meeting.

FHLBank System 1st Quarter 1992 Actual  
to Budget Report.

The above matter is exempt under  
(c)(9)(B) of title 5 of the United States  
Code. 5 U.S.C. 522b(c)(9)(B).

**CONTACT PERSON FOR MORE**  
**INFORMATION:** Elaine L. Baker, Executive  
Secretary to the Board, (202) 408-2837.

J. Stephen Britt,  
Executive Director.

[FR Doc. 92-14284 Filed 6-12-92; 4:49 pm]  
BILLING CODE 6725-01-M

## BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

**TIME AND DATE:** 11:00 a.m., Monday, June  
22, 1992.

**PLACE:** Marriner S. Eccles Federal  
Reserve Board Building, C Street  
entrance between 20th and 21st Streets,  
N.W., Washington, D.C. 20551.

**STATUS:** Closed.

## MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments,  
promotions, assignments, reassignments, and  
salary actions) involving individual Reserve  
System employees.

2. Any items carried forward from a  
previously announced meeting.

## CONTACT PERSON FOR MORE

**INFORMATION:** Mr. Joseph R. Coyne,  
Assistant to the Board; (202) 452-3204.  
You may call (202) 452-3207, beginning  
at approximately 5 p.m. two business  
days before this meeting, for a recorded  
announcement of bank and bank  
holding company applications scheduled  
for the meeting.

Dated: June 15, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-14312 Filed 6-15-92; 11:21 am]

BILLING CODE 6210-01-M



# Corrections

Federal Register

Vol. 57, No. 117

Wednesday, June 17, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

## DEPARTMENT OF COMMERCE

### Bureau of Export Administration

#### Action Affecting Export Privileges; Ahmad Modarressi; Order Denying Permission To Apply for Or Use Export Licenses

##### Correction

In notice document 92-7010 appearing on page 10459 in the issue of Thursday, March 26, 1992, in the first column, in the subject heading, "Ahmed" should have appeared as set forth above.

BILLING CODE 1505-01-D

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Applications For Duty-Free Entry of Scientific Instruments

##### Correction

In notice document 92-13131 appearing on page 23573 in the issue of Thursday, June 4, 1992, in the first column, in the fifth paragraph, in the third line, "Maine" should read "Marine".

BILLING CODE 1505-01-D

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

#### Availability of Funds for Community and Migrant Health Centers for Reducing Infant Mortality

##### Correction

In notice document 92-13192 beginning on page 24049 in the issue of Friday, June 5, 1992, in the second column, under **FOR FURTHER INFORMATION**

**CONTACT**, in the last line, "(301) 443-8143" should read "(301) 443-8134".

BILLING CODE 1505-01-D

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Social Security Administration

#### 20 CFR Part 416

##### RIN 0960-AD43

#### Federal Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Representative Payment Under Title XVI of the Social Security Act (the Act)—Compensation of Qualified Organizations Serving as Representative Payees

##### Correction

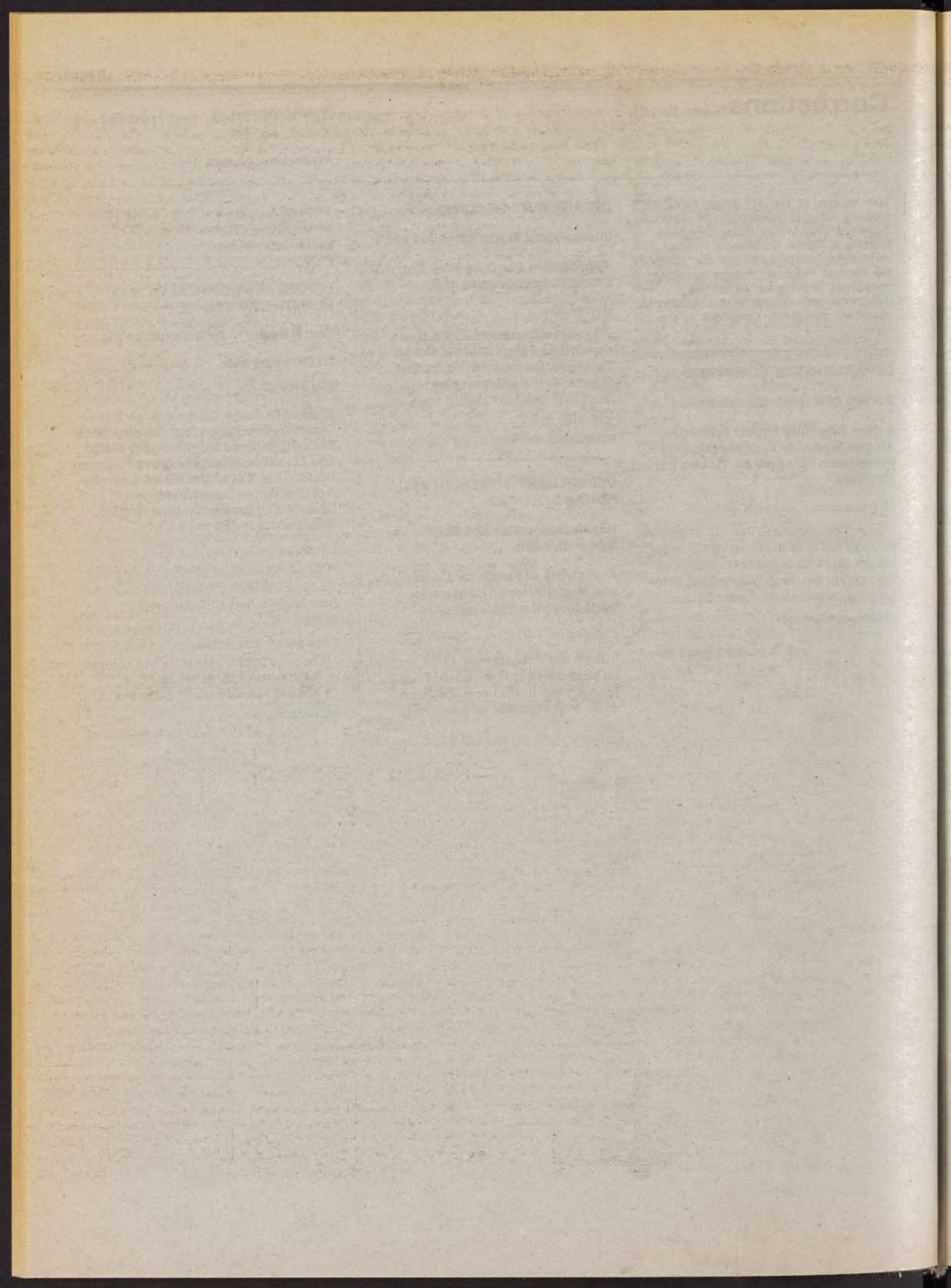
In rule document 92-12553 beginning on page 23054 in the issue of Monday, June 1, 1992, make the following correction:

##### § 416.640a [Corrected]

On page 23058, in the second column, in § 416.640a(g)(4), in the last line, "§ 416.646" should read "§ 416.645".

BILLING CODE 1505-01-D







# **federal register**

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**Wednesday  
June 17, 1992**

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## **Part II**

### **Department of the Interior**

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**Fish and Wildlife Service**

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#### **50 CFR Part 14**

**Humane and Healthful Transport of Wild  
Mammals and Birds to the United States;  
Rule**



## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 14

RIN 1018-AB22

## Humane and Healthful Transport of Wild Mammals and Birds to the United States

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

**SUMMARY:** This rule amends regulations pertaining to the humane and healthful transport of wild mammals and birds to the United States. These regulations enable the Secretary of the Interior to meet responsibilities designated by the Lacey Act Amendments of 1981 (Pub. L. 87-79, 95 Stat. 1073), enacted on November 16, 1981. For the convenience of the public, the entire rule is being published at this time, rather than the amended sections only. Rules covering humane and healthful transport of wild fish, reptiles, amphibians, and invertebrates included in the Lacey Act will be promulgated in a separate rulemaking.

**EFFECTIVE DATE:** This rule is effective September 15, 1992. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 15, 1992.

**FOR FURTHER INFORMATION CONTACT:** Mr. Marshall P. Jones, Chief, Office of Management Authority, U.S. Fish and Wildlife Service, 4401 N. Fairfax Dr., room 432, Arlington, VA 22203, telephone (703) 358-2093.

**SUPPLEMENTARY INFORMATION:** The Lacey Act Amendments of 1981 (Pub. L. 87-79, 95 Stat. 1073), enacted on November 16, 1981, required the Secretary of the Interior to prescribe requirements for the humane and healthful transport of wild animals and birds to the United States. This requirement was delegated to the U.S. Fish and Wildlife Service (Service), which held a public meeting on March 28, 1982, in Washington, DC, to receive information and comments regarding the development of appropriate regulations. On June 30, 1982 (47 FR 28432), the Service published a notice of intent that summarized the issues raised and discussed at the March 28, 1982, public meeting and invited comments and recommendations from all interested persons. On December 4, 1985, the Service published a proposed rule (50 FR 49709-49736). Comments received in response to the notice of intent were

summarized in that proposal. A final rule was published in the *Federal Register* on November 10, 1987 (52 FR 43274), and was to have taken effect on February 8, 1988. A notice correcting several typographical errors appeared in the *Federal Register* of December 3, 1987 (52 FR 46019).

Before the effective date of the final rule, the Service received a significant number of comments indicating the likelihood of impediments to its enforcement, the possible inhumane treatment that could be brought about by compliance with some of its provisions, and the possibility that some of the rule's requirements could without good reason render the transport of some animals virtually impossible. In addition, the Service received indications that some air carriers were prepared to refuse all wildlife shipments bound for the United States because of a perceived inability to assure compliance with the new rule. Critics of the rule met with Service officials on January 22, 1988, to discuss their reservations over its implementation. Service officials also met during late January 1988 with representatives of groups supporting implementation of the rule. Subsequently, a decision was made to extend the effective date until August 1, 1988, so that a thorough evaluation could be conducted. Notice of the extension and of the opening of a 30-day comment period was published in the *Federal Register* of February 10, 1988 (53 FR 3894). A further notice of explanation appeared on March 17, 1988 (53 FR 8765).

On April 18, 1988, however, responding to a lawsuit seeking implementation of the November rule, the United States District Court for the District of Columbia issued a preliminary injunction ruling that delay of the effective date was without good cause. Consequently, the Service issued a notice of effective date and enforcement policy on April 27, 1988 (53 FR 15041) and a further notice of enforcement policy on May 23, 1988 (53 FR 18287).

On August 10, 1988, the Service published a notice of intent (53 FR 30077) indicating those provisions of the November 1987 rule that appeared to warrant amendment or clarification and inviting public comment to assist in developing a proposed rule. The comment period for that notice closed on September 9, 1988. On October 15, 1990 the Service published a proposed rule amending the November 1987 rule (55 FR 41708-41718), and gave notice that comments must be received by December 14, 1990 in order to be assured consideration. This rule

finalizes the proposals made in the *Federal Register* of November 10, 1987. For the convenience of the public, the entire rule is being published at this time, rather than the amended sections only.

## Comments and Information Received

Comments on the proposed rule were received from 30 interested persons and organizations. Specifically, written comments were received from six individuals, four government agencies, four shippers and importers, one pet industry representative, two veterinary associations, four humane or animal welfare organizations, one environmental agency, two conservation organizations, two zoological parks or associations, three bird breeders, and one circus.

## Comments Pertaining to § 14.101: Purposes

One commenter noted that one can never guarantee that live wild mammals and birds arrive alive, healthy, and uninjured and that their transportation occurs under humane and healthful conditions, and recommends that the purpose be to help ensure humane transport. The Service disagrees, and notes that the Lacey Act requires the Secretary of the Interior to "prescribe such requirements and issue such permits as he may deem necessary for the transportation of wild animals and birds under humane and healthful conditions." If there are species so sensitive to injury and mortality that any transportation would be inhumane or unhealthful, consideration should be given by shippers and importers as to whether or not that species should be in trade. No change is made in the rule.

## Comments Pertaining to § 14.102: Definitions

## Ambient Air Temperature

One commenter questioned whether this refers to air in the holding area, on the tarmac, in a truck, or in an airplane. Ambient air temperature refers to the air temperature surrounding the primary enclosure at any time, including in any conveyance or holding area, and on the tarmac.

## Carrier

Three commenters noted that the term "carrier" should not be restricted to entities engaged in the business of transporting any wild mammal or bird for hire, for commercial purposes, or for exhibition, but should include all purposes for which a wild mammal or bird would be transported. The Service agrees, and will remove the words "for



hire, for commercial purposes, or for exhibition" from the definition. The intent of the Lacey Act is to cover all wild animals and birds being imported into the United States, regardless of the purposes for which the wild animal is being transported. One commenter was concerned that the definition be clear that both carriers and their employees are responsible for complying with the rule. That is implicit in the rule, wherein a carrier and all of its employees are responsible.

#### *Domesticated*

Three commenters found the proposed definition to be confusing, unclear, or unnecessary, which defines domesticated as "belonging to a species that has been habituated through human genetic selection for hundreds of generations to living in close proximity to humans and that has been bred to fulfill human requirements for food, fiber, or companionship, or as a subject of scientific research." One commenter considered aesthetic enjoyment and scientific research as irrelevant or redundant. The Service agrees, in that the use to which a wild animal will be put does not have any bearing on the conditions under which it is required to be transported. The Service agrees with one commenter that domesticated does not cover tame or habituated specimens of wild species that are genetically indistinguishable from their wild counterparts. Thus, a tiger or parrot that was born in captivity may be "tamed" through human contact, but in no way is a domesticated animal, and in no circumstances should be exempt from this rule. Two commenters noted that the term "many" generations is too vague. The Service agrees, in that domestication takes hundreds if not thousands of generations of human genetic selection. Several commenters noted that any mammal or bird that is required to be cleared and inspected by the Service should be covered by this rule. The Service strongly agrees, and as such has eliminated the definition of domesticated. Furthermore, the term "domesticated" is not used at any time in the rule, and need not be defined. The Service has defined wild as the same as "fish or wildlife", which is already defined in both 50 CFR 10.12 and 18 U.S.C. 42(a)(2).

#### *Do Not Tip*

One commenter requested an exemption from this requirement for the placement of primary enclosures on conveyor belts used to load aircraft. The Service disagrees. Rough handling when loading enclosures on conveyor belts that are not operating on a substantially

horizontal plane, including excessive tipping, can be very stressful to animals; can upset food and water dishes; and can cause serious injuries. Any such handling would be a violation of this rule, and extreme care should be exercised in the operation on conveyor belts. This regulation is consistent with the International Air Transport Association (IATA) Live Animals Regulations, which require that carriers "avoid unnecessary tilting and jolting . . . animal containers shall be handled and towed in the upright and level position."

#### *Normal Rigors of Transportation*

Three commenters recommended deleting this term and definition, contending that animals are automatically exposed to unaccustomed or unfamiliar conditions, and that the term is too vague. Another commenter recommended replacing the term with "stress caused by transportation", since stress can be defined and quantified more identifiably. The Service prefers to leave the term defined as proposed, and notes that the definition should be understood in relation to its use in § 14.105(b). The intention is that, before being accepted by a carrier, animals are to be certified by a qualified veterinarian as able to withstand the usual stresses that are unavoidably associated with transport.

#### *Primary Conveyance*

Two commenters noted that, since there can be more than one primary conveyance, there is no need to modify the term conveyance with the adjective primary. The Service agrees, since there is no use in the rule of any conveyance that is not a primary conveyance, and will drop the modifier "primary" from the definition and from the rule wherever used. Two commenters recommended removing "for a significant distance" from the definition, because it is not defined and has no authority in the Lacey Act. The Service agrees, in that the term significant distance does not add to the definition. A conveyance can certainly be used for a short or long distance, and the humane and healthful transport of the animals contained therein does not become a lesser concern when the distance is short; the definition is adjusted accordingly.

#### *Primary Enclosure*

One commenter was confused because compartment is used twice in the definition. Persons commenting on other sections of the proposed rule were also confused as to the difference between a compartment and a primary

enclosure, which are not the same. Primary enclosures can and often are subdivided into compartments. Space and density requirements in this rule (and the IATA Live Animals Regulations) refer to enclosures, and not compartments or subdivisions thereof. Thus, for example, a crate containing five wild birds that is subdivided with three partitions contains four compartments, but is a single primary enclosure. Compartment in the definition refers to compartments of a conveyance (such as part of a truck, but not a subdivision of a crate or box), and has therefore been replaced with the word "stall".

#### *Professionally Accepted Standards*

Two commenters recommended deleting this definition, claiming that it is used only once, in § 14.105(b), referring to methods used to determine the last trimester of pregnancy. It is in fact used several times, and will be retained as proposed, in order to make it clear to the public that determinations should be based on established veterinary standards.

#### *Psychological Trauma*

Three commenters disagreed with including the refusal of food or water as psychological trauma, since it can be a normal response for many species. The Service agrees that many species eat or drink intermittently, and not eating is a normal response to stress; however, for other species, the first sign of psychological trauma or abnormal levels of stress is the refusal to eat or drink. This and other definitions should be viewed in the context of the use of the terms in the body of the regulations, rather than out of context. Psychological trauma is used only in § 14.111(a), where care is required to be exercised to avoid causing psychological trauma. Care should always be exercised to avoid causing the refusal of food or water by an animal that would otherwise not refuse nourishment or liquid. Two commenters recommended that any stressful conditions resulting in significant behavioral abnormality should be considered psychological trauma, whether or not the conditions are abnormal (as in the definition). The Service agrees that any stressful conditions that result in significant behavioral abnormality constitute psychological trauma, and has removed "abnormal" from the definition (which appears twice). Two commenters recommended removing the word significant, such that any behavioral abnormality would constitute psychological trauma. The Service



disagrees, since there are many potential behavioral abnormalities that are not manifestations of psychological trauma, but are normal responses to new surroundings.

#### Wild

Several commenters found this definition to be confusing. One commenter noted that since it ties in with the definition of domesticated, "wild" should include species that have not been domesticated and non-captive populations of species that have been domesticated. The Service agrees. Two individual commenters preferred that the definition include both animals caught in the wild or bred in captivity. It is the intent of the Service that whether an animal is born in the wild or in captivity is not germane to the issue of its being a wildlife species. Habituated or tame captive individuals of otherwise wild species are wildlife. The Service notes that, as per 50 CFR 14.52, all wildlife imported into the United States must be cleared by a Service officer. This Subpart J applies to all mammals and birds that require Service clearance. The Service also notes that "wild" is the same as "fish or wildlife", as defined in both 50 CFR 10.12 and 18 U.S.C. 42(a)(2). Therefore, "wild" is defined as "the same as fish or wildlife, as defined in § 10.12".

#### Additional Definitions Recommended

Several commenters suggested that the Service define the terms "perching" and "non-perching", which are used several times in §§ 14.172 and 14.173, so as to distinguish this functional definition from the ornithological limitation of perching birds to passerines only. The intent of this term is to include all birds that rest by perching. Rather than add a new definition, the Service has changed all references to "perching birds" in §§ 14.172-14.173 to "birds that rest by perching".

One commenter suggested defining the term raptor. The Service agrees to define "raptor", based on the definition in 50 CFR 21.3, but also including golden eagles and bald eagles.

Several commenters suggested defining the term "fledged" in reference to the proposed prohibition on the importation of unfledged chicks. The Service prefers to replace the term "unfledged" with the term "unweaned", as discussed in § 14.105(b), below. A new definition of "unweaned" is included, incorporating all of the comments received on this issue.

#### Comments Pertaining to § 14.103: Prohibitions

One commenter noted that it should be stated more clearly that the responsibility for humane and healthful transport is shared by shippers, carriers, and importers. The Service feels that the rule is sufficiently clear: All persons involved with the importation of wild animals into the United States, including but not limited to shippers, importers, exporters, and carriers, are responsible for compliance with this rule, and for the humane and healthful transport of all wild mammals and birds to the United States. The transport of wild mammals or birds to the United States under inhumane or unhealthful conditions is a violation of this rule, independent of whether any mortalities result or not; the Lacey Act states that "In any criminal prosecution for violation of this subsection \* \* \* the condition of any vessel or conveyance, or the enclosures in which wild animals or birds are confined therein, upon its arrival in the United States \* \* \* shall constitute relevant evidence in determining whether the provisions of this subsection have been violated."

#### Comments Pertaining to § 14.104: Translations

One commenter noted that this section should refer to certificates of veterinary inspection, rather than health certificates, which is a more correct professional veterinary term, and which more correctly refers to the documentation to be provided by the inspecting veterinarian (which certifies that an animal is healthy and can withstand the normal rigors of transport). The Service agrees. Three commenters suggested that all documents required by this rule, and not just the veterinary certificate, should be translated into English. The Service agrees. The required documents with food, water, and care requirements (as well as signs of stress) that accompany a shipment must be translated into English. It is recommended that they also be translated into the language of countries where there is a stopover or change of conveyance. Two commenters felt that because translations are not available everywhere in the world, they should only be required if necessary. The Service disagrees, for several reasons. Veterinary certificates must be in English for enforcement purposes. Food, water, and care requirements must be in English to both facilitate enforcement and to help ensure that the animals' needs are met.

#### Comments Pertaining to § 14.105: Consignment to Carrier

One commenter inquired as to why the statement in the November 1987 final rule that "a carrier shall only accept for transport \* \* \* a primary enclosure which conforms to the requirement set forth in § 14.106 \* \* \*" was removed. The Service removed it because it is duplicative with the first sentence in § 14.106 in this rule.

#### Comments Pertaining to § 14.105(a): Acceptance by Carrier

One commenter recommended replacing "national government" with "appropriate government authority," because in many countries jurisdiction is at a state level. The Service disagrees, since allowing any government authority to sign the document creates too much potential for abuse. Many law enforcement verification problems exist when state or provincial authorities sign documents. For imports of species covered by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), for example, only documents from national authorities are accepted, unless a country's management authority officially declares that a state or provincial authority is authorized to sign documents. The Service will apply the same standard to certificates of veterinary inspection, in order to reduce the chances of abuse and resultant shipment of animals unable to withstand the rigors of transportation. If a country's national government does not certify veterinarians, that country's national government should officially declare a state or provincial authority as authorized to certify veterinarians. The Service has modified § 14.105(a) accordingly.

Another commenter recommended allowing any designated government official to sign the veterinary document, since some countries do not have a system of veterinary certification. The Service disagrees. Any country that does not even have certified veterinarians cannot guarantee that it can prepare and ship animals humanely and healthfully, and without risk to the animals, or to human health and agriculture in the United States. As stated in the proposed rule (55 FR 41709), evidence of inadequate national certification procedures in a country of origin may lead the Service not to accept certificates issued in that country; such a policy for a given country will be announced to the public in advance. One commenter recommended that shipments be inspected by a full-time



salaried veterinary officer of the national government of the exporting country. That was discussed in the proposed rule as beyond the ability of the Service to enforce.

One commenter wanted to know if "10 days prior" refers to just the air journey, or includes the ground segment of transport. It is the Service's policy that transport commences when a shipment is consigned by a shipper or exporter and includes all ground segments of a journey. If a bird or mammal is on the ground after consignment for shipment for more than 10 days after the veterinary certificate is issued, the animals must be reexamined and the certificate reissued, due to the increased probability of injury or disease transmission in the interim.

Four commenters recommended that the veterinary examination be within 48 hours prior to transport, rather than within 10 days. They noted that many animals can be injured, become ill, or die within 10 days, and that 48 hours is a more appropriate time frame. Insufficient information is available at this time to indicate a need to change the rule; the Service will continue to monitor this situation.

#### Comments Pertaining to § 14.105(b): Health Certificate

One commenter recommended replacing "health" certificate with "certificate of veterinary medical inspection", as the professionally more valid term; the Service agrees.

One commenter from a professional veterinary organization recommended that certificates of veterinary inspection include a veterinarian's certification number or license number, or equivalent. The Service agrees and has modified the requirement accordingly.

Several commenters responded to the requirement that a veterinarian certify that an animal is healthy, appears to be free of any communicable disease, and is able to withstand the normal rigors of transport. One commenter felt that a veterinarian could only certify that an animal appears to be healthy and free of disease, but not that an animal is actually healthy and able to withstand transport. Another commenter felt that the requirement was too weak, in that the regulations should require a veterinarian to certify that an animal is free of communicable disease, rather than appears to be free of disease. Another commenter supported the regulation as proposed. The Service feels that it is within the capability of the veterinary profession to determine whether or not an animal is healthy and appears free of disease. There are of course diseases that are either dormant

or beyond the capability of a qualified veterinarian using appropriate diagnostic tools to detect; no veterinarian can ever certify that an animal is 100 percent free of communicable disease, but any veterinarian should be able to certify that an animal appears to be free of communicable disease, using established standards of the veterinary profession.

Three commenters noted that the requirement that a veterinarian certify that an animal can withstand the normal rigors of transport is too subjective and should be deleted. The Service disagrees. This requirement is unchanged from the November 10, 1987 (52 FR 43274) final rule. The Service believes that at a minimum, animals must be examined by a qualified veterinarian to determine if they are able to withstand the stresses of transport. Injured or ill animals, or animals of species so sensitive to any transport that there is a significant probability that they will not survive transport, should not be consigned to transport. The Service considers this requirement to be a minimum, which by necessity must be followed by packing and handling that give the utmost attention to an animal's health and welfare.

#### Comments Pertaining to § 14.105(b): Transport of Unfledged Birds

Sixteen commenters responded to the requirement that an unfledged bird not be transported except for necessary medical treatment. One commenter opposed allowing unfledged birds to be shipped even for medical treatment (discussed below). Three commenters supported the proposal, noting both that many parrot chicks suffer high mortalities in transport and that unfledged parrot chicks are often difficult to identify to the species level. One commenter recognized that shipment of unfledged birds is a problem, but thought it should be allowed under separate permit when accompanied by an attendant. Several commenters noted that a distinction would need to be made between altricial and precocial chicks, as several species do not attain full adult plumage for several years. Other commenters suggested a detailed test for the extent to which juvenile down is covered by juvenile plumage, or the presence of blood feathers; while biologically valid, such a requirement would be burdensome, confusing, and very difficult to enforce. Several commenters noted that unfledged raptors travel very well, and are important for many bird reintroduction programs, including bald

eagles; the Service would not want to jeopardize these programs in any way. The Service is aware that no good data base exists for the relationship of age at shipment to either stress or mortality. The Service was referring more specifically to parrots than other birds that are commonly shipped prior to fledging, including cranes, ratites, penguins, or young waterfowl, which travel well prior to fledging. The Service is aware that for many species, juveniles are less likely to suffer psychological stress than adults that have spent many years in the wild. The Service would not want anything in this rule to encourage the taking from the wild of mature rather than juvenile birds, if that might be more detrimental to the species in the wild.

The Service will replace "unfledged" with "unweaned", such that no unweaned bird can be transported, except for necessary medical treatment, and then only when accompanied by an attendant. The Service is aware that the term "unweaned" may appear anthropomorphic. Such is not the Service's intention; the important point is that the rule prohibits the transport of birds and mammals that are incapable of feeding themselves independently. The Service remains concerned that juvenile birds incapable of adequate thermoregulation not be shipped; such is also the case with juvenile mammals. The Service is not aware of any objective test that could be used by enforcement personnel to assess thermoregulatory capacity. It is the Service's intent that when a veterinarian certifies that an animal is able to withstand the normal rigors of transport, the animal's exposure to temperature fluctuations and ability to thermoregulate competently be given full consideration; therefore, birds or mammals that cannot thermoregulate fully should not be granted veterinary certificates and should not be transported. The Service will continue to monitor this situation.

#### Comments Pertaining to § 14.105(b): Transport for Medical Purposes

Two commenters recommended that pregnant mammals, injured or ill animals, or unweaned birds should never be transported, even for medical treatment, due to the great risk of spontaneous abortion or the potential for abuse. One commenter preferred that a veterinarian travel to where the animal is, in the case of an ill or injured animal. The Service disagrees. The Service is aware of many cases and many potential cases where an ill or injured animal cannot be properly treated unless brought to veterinary



medical facilities in the United States; this is particularly true in the case of endangered species. It is the Service's intent that the examining veterinarian determine that the animal is able to withstand the rigors of transportation, and that the animal be accompanied throughout its journey by a qualified attendant able to attend to its medical needs. The rule is modified to clarify that the transport of a nursing mother with young, an unweaned mammal unaccompanied by its mother, or an unweaned bird for necessary medical treatment, should be so certified by the examining veterinarian.

One commenter noted that the term "trimester of pregnancy" is too anthropomorphic. The Service believes that for many mammals, including but not limited to primates, the term is medically appropriate. For mammals for which the term is not commonly used, the intent of the Service is to cover the final third of the gestation period.

Two commenters questioned whether sick or injured animals may be shipped in the belly of an airplane, without access to an attendant, or if an attendant is to travel in the cargo hold. It is the Service's intent that an attendant qualified in veterinary medicine, and licensed to administer any necessary medications or treatment, accompany at all times an animal being imported for medical purposes, and has so clarified in the final rule. If access to the portion of a conveyance where the animal is located is not available, another conveyance should be found, since the transport of an ill or injured animal for medical treatment necessitates constant monitoring by veterinary personnel. The availability of an attendant at all stopovers is not sufficient; the rule reflects the Service's intent that continuous access be available to the animal by the veterinary attendant. Another commenter stated that injured animals are often transported without serious effects. The Service is unaware of any data supporting this claim.

#### **Comments Pertaining to § 14.105(d): Acceptance Time Prior to Departure**

Several commenters supported the rule as proposed whereby no carrier shall accept any wild mammal or bird for transport to the United States presented less than 2 hours or more than 8 hours prior to the scheduled departure of the conveyance. One commenter preferred a 6-hour maximum time, in order to retain a 4-hour window. Another commenter noted that the 8-hour maximum is too long a period for most marine mammals, noting that the U.S. Department of Agriculture (USDA)

regulations (9 CFR 3.112) require that carriers not accept a marine mammal more than 4 hours before scheduled departure. The Service notes that the Animal Welfare Act Regulations of USDA (9 CFR chapter I part 3) place a 6-hour maximum on the amount of time prior to shipment that an animal can be presented to a carrier. In order to facilitate regulatory consistency between agencies, to aid enforcement, and to facilitate understanding and compliance by shippers and carriers, the Service has changed the rule to reflect a 6-hour maximum.

#### **Comments Pertaining to § 14.106: Primary Enclosures; Number of Animals or Species Per Primary Enclosure**

Two commenters recommended that animals of different species be prohibited from being transported in the same primary enclosure. The Service prefers to handle the species mixing issue together with the issue of numbers per primary enclosure, according to taxonomic group; regulations pertaining to species mixing can be found in §§ 14.121, 14.131, 14.142, 14.151, 14.161, and 14.172. The net result is that all mammals other than rodents are to be transported in individual primary enclosures, except for rodents of the same species, and birds must be of the same species if transported in the same primary enclosure. Animals of different species may be shipped together, in the case of in the same shipment, but they may not be shipped in the same primary enclosure.

Two commenters recommended that no more than one animal be allowed per primary enclosure, except as specifically allowed in §§ 14.161 and 14.172. This is the case in the rule as proposed; the Service herein clarifies that only some rodents and some birds can be transported with more than one individual animal per primary enclosure, and the allowable densities of birds and rodents per primary enclosure are specified in § 14.161(c) and § 14.172(c) and (e). The Service further notes that this section requires that the current container requirements of the Live Animal Regulations adopted by the IATA shall be complied with by all persons transporting wild mammals or birds to the United States. Those container requirements include enclosure design and construction, density guidelines, preparations, feeding, and general care requirements, which must all be complied with. For clarification, § 14.106(a) has been modified to clarify that all aspects of the IATA Live Animals Regulations (LAR) Container Requirements shall be complied with. Therefore, if densities

are not restricted further in §§ 14.121-14.172, those densities specified in the applicable IATA LAR Container Requirement constitute the maximum number of animals per primary enclosure.

Four commenters supported the proposal to require that all primary enclosures conform to the current container requirements of the IATA Live Animals Regulations; none were opposed.

#### **Comments Pertaining to § 14.106(b): Primary Enclosure Construction**

One commenter suggested that § 14.106(b) be modified to require that a primary enclosure be so constructed that it may be easily opened without the risk of escape of the animal, in order to facilitate inspection and reduce stress to the animals contained therein. The Service agrees, and has modified § 14.106(b)(5) accordingly.

Three commenters opposed the language in § 14.106(b)(3), which they felt allows some parts of an animal to extend or protrude outside of the enclosure, even if it is dangerous, by allowing a violator to claim that the protrusion was not expected to cause injury. It is the Service's intent that any protrusion that has the potential to cause injury to the animal or nearby persons or animals, whether such an injury occurs or not, is prohibited. Benign protrusions of hair or fur are permitted. Section 14.106(b)(3) is therefore modified to replace "in such a way as to cause injury" with "which may result in injury".

Several commenters requested a clarification of the authorized personnel referred to in § 14.106(b)(5) that can remove an animal in the case of an emergency. One commenter felt that only experts should have access to animals; another felt that carrier employees, volunteers, or untrained persons should never interact with animal during shipment. It is the Service's intent that authorized personnel include Service personnel, authorized representatives of the national government of the exporting country, and authorized representatives of the shipper, carrier, exporter, and importer. The Service cannot enforce who removes an animal in the case of an emergency, according to instructions provided by the shipper.

#### **Comments Pertaining to § 14.106(c) and (d): Spacer Bars and Hand-Holds**

Eight commenters supported the proposed requirement regarding spacer bars, although seven felt that the requirement is still too complex. Three



commenters recommended that 6-inch spacer bars be required on all primary enclosures, except those with hand-holds or slanted walls with ventilation openings. The Service agrees that such a requirement would be much simpler to enforce, although six inches is certainly extreme for very small enclosures that are less than 12 inches in length. Two commenters recommended .75 inch spacer bars, claiming that 6 inch spacer bars will make enclosures cumbersome. The Service disagrees, noting that a major cause of mortality during transport is lack of sufficient air to breathe, due to overcrowding or substandard ventilation, and there is no evidence that .75 inches will provide sufficient air circulation to prevent asphyxiation. The Service does not consider the requirement to be too complex. Any spacer bar that extends 6 inches will satisfy this requirement. Any spacer bar that extends less than 6 inches cannot be less than 10 percent of the length of the surface to which it is attached if there is one animal in the enclosure and cannot be less than 20 percent of the length of the surface if more than one animal is in the enclosure.

One commenter recommended that the statement that hand-holds be designed so that the person handling the enclosure will "not come into contact with its contents" be replaced with "not come in contact with the animals contained therein", to clarify that it is the animals inside that should not be disturbed; contact with food and water containers contained therein, as instructed by the shipper, is appropriate. The Service agrees and has modified the rule accordingly.

#### Comments Pertaining to § 14.106(e)-(f): Enclosure Construction

All comments on these sections were supportive of the proposed revisions. One commenter suggested that for some species of birds, absorbent material may be appropriate, though should not be required for all bird species. The Service agrees, and will allow for litter in primary enclosures containing birds only if it is specified in writing by the examining veterinarian.

#### Comments Pertaining to § 14.106(g): Marking on Enclosures

One commenter supported the proposed labeling requirements for enclosures. One commenter claimed that the requirement that the "THIS WAY UP" arrows be on all sides is inconsistent with USDA regulations that require only one side. The Service prefers that these regulations correspond with the IATA LAR, which

require labels with "This Way Up" arrows on all four sides of the container, where possible. Furthermore, compliance with these regulations satisfies USDA regulations.

One commenter noted that USDA regulations require that primary enclosures containing primates be marked "Wild Animals" instead of "Live Animals", and that "Wild Animals" is an alternative to "Live Animals" for many other species. The Service agrees that our requirement of "Live Animals" only is an unnecessary inconsistency, and has modified the rule such that enclosures shall be marked either "Live Animals" or "Wild Animals".

#### Comments Pertaining to § 14.106(h): Shipper's Food and Water Instructions

Several commenters supported the rule as proposed. One commenter suggested that instructions specify when water and food are necessary. The intent of this requirement is that the shipper provide the carrier with precise information on what the animal needs to be fed, and when and how frequently it should be fed and/or watered. One commenter suggested that shippers and consignees be required to provide telephone numbers where they can be reached. The Service urges shippers and consignees to provide telephone and facsimile numbers, when available. The Service will continue to explore this issue and may propose such a requirement in the next revision of this rule, which is anticipated to include reptiles, amphibians, and fishes.

One commenter requested clarification of under what circumstances and under whose authority access to wildlife is granted, suggesting that only individuals identified by the shipper be so authorized. The Service feels that only individuals identified and authorized by the shipper, importer, exporter, and carrier should be authorized to provide medication to an animal, but Fish and Wildlife Service and other government officials retain their authority to have access to animals. Furthermore, any animal that is so fragile as to not be able to be accessed in any way by appropriate carrier staff should be accompanied by a veterinary attendant throughout its journey.

One commenter suggested that the recipient should determine food and water needs together with the shipper. The Service encourages this communication prior to preparation of the animal for shipment, in order to provide the carrier with as specific and as appropriate a set of food, water, and care instructions as is possible.

Two commenters suggested that copies of purchase orders and instructions by the importer to the shipper be made available to enforcement personnel on request. This would place responsibility on the importer as well as the shipper and not allow the importer to claim that he/she gave correct instructions to the shipper, but they were ignored, if that were not the case. Regardless of whether or not the importer gave the correct instructions to the shipper, the importer, the carrier, and the shipper are all responsible for ensuring the humane and healthful transport of live wild animals to the United States. Even if an importer can prove that he/she gave the correct instructions to the shipper, if the animals were shipped inhumanely the importer shares in the legal responsibility. Two commenters recommended that food and water instructions be in document packets accompanying a shipment, but not physically attached to the primary enclosures. The Service disagrees. Unattached documents can become separated from shipments, and enclosures can become separated, making it impossible for carrier personnel to know what the food and water requirements of the animals are. Copies of these instructions should also be attached to air waybills or other bills of lading, to allow carrier staff to verify compliance with the instructions. Physical attachment of the required instructions to each primary enclosure is necessary to help ensure that the instructions are available to appropriate personnel; this would preclude any carrier personnel from claiming that they were unaware of the specific instructions. The shipment of an enclosure without such a document affixed would be in violation of this subpart J.

#### Comments Pertaining to § 14.106(h): Obvious Signs of Stress

Two commenters, while supporting the proposal, recommended that information on signs of stress be always required without providing the loophole "when known to the shipper." Since § 14.109(a) requires that the "carrier shall also determine whether any animals are in obvious distress as described in documents attached to the enclosure," the Service notes that such documents are always required and agrees to remove the phrase "when known to the shipper." If the shipper does not have the appropriate food, water, and stress information, it is his/her responsibility to obtain it. The absence of such basic information



would preclude the humane and healthful transport of an animal. One commenter noted that such a requirement is too subjective, in that experts might have a difference of opinion. The Service disagrees that basic information on obvious signs of stress is subjective; the Service does not require the type of detailed behavioral information that would potentially be equivocal among animal behaviorists. One commenter felt that information on animal husbandry is not understood by foreign carriers and not available. The Service believes that animals about which information on basic husbandry is not available from experts in the field or veterinarians should not be shipped.

Two commenters recommended that drugs be given only by a veterinarian or other qualified attendant, and never by unlicensed or unqualified carrier personnel. The Service agrees. Sick or injured animals are required by § 14.105(c) to be accompanied by a veterinary attendant; as such, all medications should be administered by this attendant only. The Service has modified the rule accordingly while continuing to require that medication requirements be attached to the enclosure. This would provide verification of medications used.

#### **Comments Pertaining to § 14.106(i): Food and Water Troughs**

One commenter supported the proposed rule, while two others suggested that this requirement is not appropriate for psittacine birds, since they do not need foam or sponge inserts. The rule states that the water trough "shall contain a foam or sponge insert, a perforated wooden block, or other suitable device to prevent spillage or drowning". If a water trough can be constructed in such a manner as to prevent spillage or drowning while remaining full and accessible to the birds between replenishments, this section is satisfied.

#### **Comments Pertaining to § 14.106(j): Permanently Affixed Enclosures**

One commenter noted that expanded metal mesh is inherently sharp on all sheared surfaces, and since it can never be smooth it is unsuitable for primarily enclosures used for live animals. The Service agrees and has removed this term from the rule.

One commenter recommended that permanently affixed enclosures be required to have a passageway at least 12 inches wide in the conveyance. The proposed rule already requires that such passageways or aisles within a conveyance be unobstructed; the Service considers an unobstructed

passageway to be at least 12 inches wide, and this is incorporated into the rule.

#### **Comments Pertaining to § 14.107: Conveyance**

Two commenters supported the rule as proposed. Two commenters disagreed with removing the requirement that primary enclosures be positioned for easy removal in case of an emergency. The Service believes that this requirement was virtually impossible to enforce and potentially dangerous for animals in some circumstances. The Service is aware that, if animals are placed in a cargo hold of an aircraft nearest the exit, there can be circumstances where the animal is thereby handled excessively and off-loaded unnecessarily during short stopovers. The Service further notes that the provision in § 14.111(e) that animals be last loaded and first unloaded helps ensure that animals are accessible in the case of an emergency in transit.

Two commenters disagreed with the Service's removal of the provision requiring sufficient air for normal breathing. The Service would like to clarify that it has modified the regulation, without in any way removing the requirement that animals are provided with sufficient ventilation for normal breathing. The Service notes that § 14.106(b)(6) requires that "the enclosure has sufficient openings to ensure adequate circulation of air at all times", and § 14.107(c) requires that "No wild mammal or bird shall be placed in a cargo space of a conveyance that does not provide sufficient air for it to breathe normally. Primary enclosures shall be positioned in a cargo space in such a manner that each animal has access to sufficient air for normal breathing." The Service considers these two provisions to be enforceable and sufficient, if complied with, to ensure adequate ventilation.

One commenter recommended that the interior of an animal cargo space be required to be "kept clean", rather than be "kept clean of disease-causing agents." The Service prefers that carriers be required to attempt to remove disease-causing agents, and that this requirement is necessary to ensure healthful transport conditions, and to reduce the risk of disease transmission in transport.

One commenter recommended that the regulation require that enclosures should be placed within the heated and pressurized area of a conveyance, in the case of aircraft. The Service agrees with this requirement, and believes that it is covered by § 14.109.

#### **Comments Pertaining to § 14.108(a): Food and Water Instructions**

One commenter suggested that food and water requirements be required to be translated into English. The Service agrees, and has incorporated that into § 14.104. One commenter suggested that food and water instructions be in the documents packet but not attached to crates, as they would not be required during normal transport. The Service disagrees, as the carrier is required to provide for the animal's food and water needs in all circumstances; the food and water requirements must be attached to each enclosure in order for all responsible personnel to be aware of animals individual needs. One commenter requested clarification of who is responsible to assure that food and water instructions are consistent with professionally accepted standards. Shippers, importers, exporters, and carriers are all responsible for compliance with this subpart J and for the humane and healthful transport of all wild mammals and birds to the United States; they all share responsibility to ensure that instructions for care are consistent with professionally accepted standards. A shipment that is unaccompanied by food and water instructions is a violation of this subpart J; a shipment accompanied by instructions that result in inhumane or unhealthful transport is also a violation of this subpart J. The Service urges shippers, importers, and exporters to consult with zoological, veterinary, and scientific experts to verify the appropriate food and water regimes for animals during transport. One commenter suggested that the Service use the CITES checklist recommended in Resolution Conf. 7.13 to ensure food and water requirements. The Service is currently working on a proposed rule that may require the checklist for all CITES-controlled shipments, but this subpart J applies to imports into the United States of all wild mammals and birds, including those not listed in the CITES Appendices.

#### **Comments Pertaining to § 14.108(b): Water Suitable for Drinking**

Two commenters supported the rule as proposed. One commenter recommended including a requirement that water be uncontaminated to prevent a shipper from considering fetid water to be suitable for drinking. The Service agrees and notes that uncontaminated refers to water that is free from any matter or organisms that could cause injury or disease. One commenter preferred returning to the



earlier requirement that water be "potable." Since potability standards for humans differ from those for animals, this term was eliminated.

**Comments Pertaining to § 14.108(c): Animals That Obtain Moisture From Their Food**

One commenter maintained that this requirement could contravene USDA restrictions on the importation of fresh fruit. The Service, based on discussions with USDA's Animal and Plant Health Inspection Service (APHIS), disagrees; fruit can and should be provided to animals that obtain their moisture from fruit. When fruit is removed from an enclosure on arrival at the port of entry or at a quarantine station, fresh fruit can be provided. The Service is aware that mortalities have resulted when animals that can only obtain moisture from fruit are not provided with any fruit during transport.

**Comments Pertaining to § 14.108(d): Periodic Observations**

Two commenters suggested that this section contradicts § 14.111(f)(4), which protects animals from harassment by humans. The Service knows of no practical way a carrier can determine if an animal requires food and water replenishment, or if an animal has been injured or requires veterinary attention, without observing it. The Service is aware that many animals travel better when they cannot see people moving about outside of their enclosure; the IATA Live Animals Regulations, which must be complied with in enclosure construction, allow for the use of a burlap cloth covering the opening to an enclosure in such circumstances. One commenter questioned if this requirement for inspection every four hours requires off-loading during delays to provide food and water every four hours. If food and water can be provided without off-loading (which should be possible, since enclosures with animals are required to be accessible at all times in the cargo hold), off-loading is not required. Any circumstance where an aircraft is delayed and animals are not provided with required food and water at least every four hours (unless instructed otherwise by the shipper), is a violation of this subpart J. One commenter recommended that the carrier be required to note the time an observation was made, the ambient temperature, and care given, in order to facilitate compliance and enforcement as well as to corroborate compliance when problems arise. The Service agrees and considers such a requirement in the best interest of both the animals and the carrier responsible. The Service

will continue to explore this issue and may propose such a requirement in the next revision of this rule, which is anticipated to include reptiles, amphibians, and fishes.

**Comments Pertaining to § 14.108(e): Provision of Food**

One commenter questioned if the shipper is required to provide an emergency food supply; another recommended that for birds an emergency food supply suitable for 1½ days be supplied by the shipper. The Service notes that this subsection requires that food be provided. The Service expects shippers to provide food appropriate for the species that is suitable for the entire journey, with due consideration given to delays or emergencies. The Service considers a 1-2 day food supply to be reasonable. In the event of longer delays, both the carrier and the shipper are responsible for obtaining and providing the required food. To clarify this intent, the Service has modified this subsection to require that suitable and sufficient food be made available.

One commenter requested clarification as to who is responsible for providing the food. As stated in § 14.103, it is unlawful for any person to import, transport, or cause or permit to be transported to the United States any wild mammal or bird in violation of this rule. Therefore it is the responsibility of all persons involved to ensure compliance with this and other sections of this subpart J. The Service has modified this subsection to clarify this intent, in that all persons involved are responsible for making suitable and sufficient food available.

**Comments Pertaining to § 14.109(a): Care in Transit**

Several commenters discussed the required inspections every four hours, which was discussed in § 14.108, above. In addition, three commenters supported the required inspections every four hours, but objected to the exemption "whenever the cargo hold is accessible." They recommended that when the cargo hold is not accessible, transportation should not exceed 3 or 4 hours. The Service disagrees. The Service has included this exemption because cargo holds are not accessible while an aircraft is in flight. At any time that an aircraft is on the ground, cargo holds are accessible, and the required inspections must take place. The Service does not consider it reasonable to limit all air transport to flights of less than four hours; this could result in inhumane care by encouraging transport with more stopovers and aircraft connections

rather than nonstop flights. For example, the Service believes that in most cases a nonstop flight of 6 or 7 hours wherein an animal is not disturbed is preferable to two 3-hour flights including a change of aircraft. Insufficient information is available at this time to indicate a need to change the rule; the Service will continue to monitor this situation.

One commenter opposed the required inspections every 4 hours, claiming that this could preclude expeditious transport. The Service notes that inspections when an aircraft is in flight and the cargo hold is not accessible are not required; inspections on the ground during stopovers are encouraged to be carried out without off-loading, and animal enclosures are required to be placed accessibly in cargo holds to facilitate such inspections. One commenter noted that the required inspections would prohibit overnighting of shipments at connecting airports that are not open 24 hours a day. The Service reminds the public of § 14.110, which requires animal holding areas at terminal facilities in stopover countries. Stopover facilities without such animal holding areas should not be used. The use of facilities that are closed overnight requires that arrangements be made in advance for inspection. The use of such unattended overnighting facilities may not constitute the most expeditious routing possible.

One commenter recommended that the Service determine when a carrier should contact the shipper or a veterinarian, based on observed signs of distress. That is a species-specific matter that cannot be spelled out for each species. It is the responsibility of the shipper to provide that information to the carrier, and the carrier should not accept a shipment without that information. Three commenters noted that it may be impossible to reach the shipper concerning the need for veterinary care, which should be provided by qualified persons only. The rule requires that "the carrier shall attempt to correct any condition causing distress and shall consult the shipper concerning any possible need for veterinary care if no veterinarian or qualified attendant is traveling with the shipment." The carrier should therefore contact the shipper if distress is observed; if the shipper is unavailable, a local veterinarian should be consulted. The carrier should document such consultations as required by this subsection.

Two commenters asked the Service to remove this requirement, claiming that it is not realistic to require a carrier to determine whether an animal is in



distress. The Service disagrees. Under the authority of the Lacey Act, it is a carrier's responsibility to assess whether an animal is in distress, and to alleviate such distress to the best of its ability.

One commenter questioned whether loading personnel are required to read English to assess if animals are in distress. The Service requires that documents be translated into English for U.S. compliance and enforcement purposes. The carrier, shipper, and importer are free to have pertinent instructions available in any other language understood by their own personnel.

Three commenters opposed allowing veterinary exceptions to the requirement that pressure be maintained equivalent to a maximum altitude of 8000 feet, arguing that there is too much risk that a veterinary document could be "manufactured." The Service agrees, in that few animals will ever be transported to the United States from high altitude habitats that could not tolerate pressures equivalent to 8000 feet; if these pressures could not be tolerated, the animals probably are not suitable for maintenance in the United States. Pressurization at 8000 feet is an industry standard. The rule is modified accordingly.

#### **Comments Pertaining to § 14.109(b): Air Temperatures**

Several commenters considered the temperature range requirements to be cumbersome, complex, inconsistent, and unenforceable. Several commenters recommended higher minimum temperatures for birds and mammals due to the serious risk of chilling and the fact that the majority of birds and mammals come to the United States from tropical habitats. One commenter noted that the requirement that ambient air temperatures not fall below 7.2 degrees C (45 degrees F) is inconsistent with the requirement in § 14.111(f)(3) that animals be provided protection from cold when ambient air temperatures fall below 10 degrees C (50 degrees F). The Service agrees. Since ambient air temperature is defined as the temperature of the air surrounding a primary enclosure containing a wild mammal or bird, in the interests of consistency and humane treatment, the Service has added "terminal facility" to this subsection.

Several commenters recommended that one set of minimum and maximum temperatures would be much more enforceable and realistic for carrier compliance. Several commenters suggested that it is unnecessary and cumbersome to have separate

temperature requirements for birds and mammals. The Service agrees. One commenter recommended that, in the case of birds, the regulations state that temperatures be maintained that are neither too high nor too low for their comfort. The Service believes that actual temperature ranges should be specified rather than leaving it to a subjective determination of comfort. As proposed in this subsection and in § 14.173, ambient temperatures for mammals cannot fall below 7.2 degrees C (45 degrees F) and cannot fall below 7.2 degrees C for some birds and 12.8 degrees C (55 degrees F) for other birds. The Service is consolidating these requirements into a single requirement that temperatures not fall below 12.8 degrees C (55 degrees F) for all species of birds and mammals, that temperatures not exceed 26.7 degrees C (80 degrees F) at any time, and that auxiliary ventilation be provided when the temperature exceeds 23.9 degrees C (75 degrees F). The Service has moved the temperature requirement for penguins and auks to this subsection to facilitate compliance. One commenter suggested adding specific temperature requirements for cold water marine mammals, which the Service has done in this subsection. This further consolidates the requirement that sets one maximum temperature and another temperature that could not be exceeded for more than four hours at a time.

The Service is aware that species from extremely cold climates do well in colder temperatures and that species from warm tropical climates do well in warmer temperatures. Any variations from the above temperatures that are in an animal's best interest and would help ensure more healthful and humane transport should be specified in writing by the examining veterinarian. The Service is also aware, however, that temperatures an animal is accustomed to in the wild are often higher or lower than those that are optimal when in captivity or when confined during transport. In the wild, an animal is under less physiological stress, is less crowded, and is able to make behavioral adjustments, including escape to a location with more optimal temperatures or ventilation. The Service urges all shippers, importers, and exporters to consult with veterinarians and zoological professionals prior to shipment to determine the optimal temperatures for specific animals.

#### **Comments Pertaining to § 14.110: Terminal Facilities**

One commenter questioned if carriers are precluded from stopping over in countries without animal holding areas,

even if they can meet other requirements of this Subpart. The Service notes that the rule requires that terminal facilities used for wild mammal or bird transport in stopover countries contain an animal holding area or areas.

One commenter noted that holding areas in the Third World do not have air conditioning and recommended that ventilation substitute for maximum temperatures. The Service disagrees. The rule now requires that ambient air temperatures not exceed 26.7 degrees C (80 degrees F). If appropriate auxiliary ventilation is utilized, even without air conditioning the ambient air temperature should be able to be maintained at or below 26.7 degrees C.

#### **Comments Pertaining to § 14.111: Handling**

##### **Comments Pertaining to § 14.111(a): Physical or Psychological Trauma**

One commenter maintained that physical trauma is undefined and that psychological trauma is still unclear. The Service considers psychological trauma to be sufficiently defined. The Service considers physical trauma in the context of this rule to be self-explanatory. The essence of this subsection is that primary enclosures should never be handled in a manner likely to cause any trauma to an animal.

##### **Comments Pertaining to § 14.111(c): Incompatible Animals**

One commenter felt that the provision that incompatible animals should not be crated together or held in close proximity belongs in § 14.106, which refers to acceptance procedures. The Service disagrees since incompatible animals should not be near one another at any time. Please refer to the discussion of comments pertaining to § 14.106, above.

##### **Comments Pertaining to § 14.111(d): Handling in an Expeditious Manner**

One commenter noted that airlines often have unscheduled delays beyond their control and asked for clarification if these delays are violations of § 14.111(d), which requires that transport be accomplished expeditiously and without unnecessary delays. The Service is aware that unscheduled delays beyond a carrier's control do occur. Such delays, when beyond a carrier's control or ability to avoid, are not a violation of this subsection; however, both the carrier and the shipper are responsible to arrange for transport in an expeditious manner and to guarantee that an emergency food supply is available in the event of such delays.



One commenter recommended a requirement that animals be let into a larger enclosure after every 12 hours of confinement for a rest period of at least 5 hours. For transport by sea or land, the Service encourages shippers and carriers to provide animals that need to exercise with an opportunity to do so. For air transport, however, such a requirement would be potentially stressful and inhumane to the animals.

#### **Comments Pertaining to § 14.111(e): Last Loaded, First Unloaded**

Three commenters support the rule as proposed. One supports the wording that wild mammals or birds shall be last loaded and first unloaded, "consistent with other procedures and requirements of the carrier," while two opposed it. Three other commenters recommended that the wording state that wildlife be loaded as late as possible and unloaded as early as possible, to afford the least amount of handling and greatest opportunity for observation of wildlife. Other provisions in this subpart J provide for as minimal handling of primary enclosures as is possible. The Service believes that loading animals last helps ensure their rapid removal in the case of an emergency. However, there may be procedures of a carrier that require that some other cargo is loaded after an animal is loaded, with no consequence for the humane and healthful treatment of an animal; it is not the intent of the Service that such a procedural matter be considered a violation of this subpart J. Furthermore, to clarify that these regulations apply to all forms of transport, § 14.111(e) is modified to apply to all conveyances.

#### **Comments Pertaining to § 14.111(f): Shelter and Protection**

The Service notes that temperature requirements are in § 14.109(b) (see the above discussion of § 14.109(b)), and has modified § 14.111(f)(3) to require that shelter from cold be provided. Ambient temperatures cannot be allowed to fall below those specified in § 14.109(b).

One commenter recommended that routine exposure to noise, fumes, heat, and light not constitute a violation. Another commenter suggested adding the words "harmful and excessive" to the disturbances that animals shall be protected from. The Service disagrees. The exposure of an animal to any harassment is potentially inhumane and unhealthy, and it is the carrier's responsibility to move animals to a safer area. Subsection § 14.110(a) requires that terminal facilities used for wild animals contain an animal holding area, in which live animal shipments and inanimate cargo should not be

commingled. Therefore, if a carrier is in compliance with § 14.110(a), compliance with § 14.111(f)(4) will be facilitated. Another commenter recommended instead that animals be placed away from machinery to minimize exposure to noise, fumes, heat, light, or vibrations, but not to be precluded from such harassment altogether. The Service believes that harassment by humans or other animals, or by machinery as listed in this subpart, constitutes inhumane treatment of an animal confined in such a way that it cannot avoid the harassment.

Another commenter recommended that "moisture" and "cold drafts" be added to sources of harassment in this subsection. The Service agrees with the principle that animals should be sheltered from moisture and cold drafts, but that this subsection refers more specifically to harassment by humans, other animals, or machinery. The Service considers § 14.111(f)(2) sufficient to protect animals from excessive moisture and § 14.111(f)(3) sufficient to protect animals from cold drafts.

Another commenter noted that shelter should be provided from cold in holding areas, conveyances, and terminal facilities, in addition to transporting devices. The Service agrees, and has modified this section accordingly.

#### **Comments Pertaining to §§ 14.121-14.123: Specifications for Non-Human Primates**

##### **Comments Pertaining to § 14.121(a): Densities in Primary Enclosures**

One commenter noted that many primates are colonial and that there is no reason to ship them in separate enclosures, recommending that groups of animals that have been habitually housed together should be able to be shipped in the same enclosure. The Service believes that this factor is taken into consideration in the provision that pairs that have been habitually housed together can be shipped in the same enclosure. The Service is concerned that allowing for larger groups to be shipped together might allow some unscrupulous individuals to pack primates into enclosures at inhumane densities while claiming that they had been housed together previously. The Service is aware that juveniles, family groups, or pairs familiar with one another should not be separated and has provided for their being able to be shipped together. If four animals have been habitually housed as a unit, they could be shipped in two separate primary enclosures. The Service further notes that the IATA Live Animals Regulations Container Notes for primates, which this subpart J

requires compliance with, are designed for primates to be shipped singly. One commenter noted that primates of different species should never be shipped together in the same enclosure. The Service agrees, and has clarified the rule. One commenter opposed the exception allowing mothers and nursing young to be shipped for medical treatment, which was discussed above in the comments on § 14.105.

##### **Comments Pertaining to § 14.121(c): Ventilation Openings in Enclosures**

One commenter supported the provision that ventilation openings comprise 30 percent of the surface area of each wall if only two walls have openings and comprise at least 20 percent of the surface area if all four walls have ventilation openings. The Service notes that this provision is not changed from the final rule of November 10, 1987 (52 FR 43274). One commenter found this requirement confusing, claiming that total ventilation should equal 30 percent, rather than 30 percent per wall. The Service notes that the two terms are equivalent, as long as at least two walls are ventilated.

Three commenters considered this provision to be inconsistent with the primate transportation requirements of the Animal Welfare Act Regulations of USDA in 50 CFR part 9, which require 16 percent and 8 percent ventilation, respectively. The Service disagrees. The Service notes that in written correspondence USDA/APHIS has stated: "We find no areas of conflict between the two proposed rules . . . The USFWS proposals for ventilation comply with and exceed USDA proposals. The additional ventilation requirement is probably desirable for newly captured, nonhuman primates that are subjected to very long transport periods during importation. Enclosures meeting USFWS proposed requirements are satisfactory for shipping nonhuman primates within the United States as they meet or exceed USDA requirements . . . All other aspects of our proposed rules for primates are very close if not identical." Therefore, no change will be made in this subsection.

Another commenter questioned why the ventilation is required above the midline, claiming that ventilation near the bottom of an enclosure may make the animal more comfortable. The Service disagrees, noting that most primates prefer dark places to hide in and are more comfortable if they can hide below the midline of an enclosure.

Another commenter noted that the Service should make it clear, both in this subsection and in later subsections



dealing with ventilation, that ventilation must be on at least two walls, unless the enclosure is permanently affixed. The Service agrees, and has clarified this requirement.

#### Comments Pertaining to § 14.122: Food and Water

One commenter questioned how a carrier could be expected to determine the age of a primate, if the age is not required to be included on the veterinary certificate, yet the rule requires that primates younger than 1 year of age be fed more frequently than older individuals. The Service agrees and has modified the rule so that all primates are to be fed at least every 12 hours, unless instructed otherwise by the shipper. For older primates, if feeding less frequently than every 12 hours is in the animal's best interest, the shipper should specifically instruct the carrier accordingly.

Another commenter noted that water is very important for primates, and that sick and dying animals frequently are dehydrated, in spite of an appropriate ambient temperature. The Service agrees, and has clarified this section such that primates shall be provided with suitable drinking water at least every 12 hours, unless instructed in writing to do so more frequently by the shipper.

#### Comments Pertaining to § 14.123: Care in Transit

One commenter recommended adding a new section requiring that ambient temperatures in a conveyance or animal holding area or with nonhuman primates never be allowed to fall below 15.6 degrees C (60 degrees F), since primates cannot tolerate lower temperatures. In subsection § 14.109(b), the rule now requires that all holding areas, conveyances, or terminal facilities, ambient air temperatures not fall below 12.8 degrees C (55 degrees F). The Service notes that if this minimum temperature is too low for a given species, the examining veterinarian can and should specify what temperatures are necessary for the animal's humane and healthful transport.

#### Comments Pertaining to §§ 14.131-14.133: Specifications for Marine Mammals

##### Comments Pertaining to § 14.131: Primary Enclosures

One commenter considered the ventilation requirements to be confusing noting that the required amount of ventilation would be insufficient for most marine mammals, particularly pinnipeds, walruses, and otters. Two

commenters recommended increasing the per side ventilation requirement for marine mammals to 25 percent, while another suggested conformity with primates by requiring 20 percent per side. The Service agrees, and has changed the 16 percent ventilation requirement to 20 percent. The provision of more ventilation than is required is of course in compliance with this subsection. One commenter recommended changing the wording to state that the percentage of the total surface area of the sides should be divided equally among the sides, rather than as proposed that ventilation shall comprise a given percentage of the total surface area of each side. The Service notes that the two are the same: X percent of the total surface area divided equally among four sides is the same as X percent per side for four sides.

One commenter questioned whether it is necessary for a polar bear to be able to turn around. The Service considers it necessary, until such time as sufficient evidence is provided that either not providing the space is preferable for the animal's health and humane treatment or that providing sufficient space to turn around is inhumane or unhealthful.

One commenter requested clarification of the acceptable means that could be used to restrict a marine mammal's movements, claiming that this provision provides a loophole for unduly restraining marine mammals. This provision is unchanged from the final rule of November 10, 1987 (52 FR 43274). The Service disagrees with the commenter and is unaware of any circumstances since this rule has been finalized where marine mammals have been unduly restrained.

One commenter objected to allowing more than one marine mammal in a given primary enclosure even if they are of compatible groups of the same species, particularly in the case of polar bears and sea otters. No changes will be made in this subsection at this time, but the Service is open to receiving information about any cases where marine mammals have been transported in compatible groups and inhumane or unhealthful transport has resulted, or violations of this subpart have occurred.

##### Comments Pertaining to § 14.132: Food and Water

One commenter requested clarification as to why marine mammals can be transported for more than 36 hours without being offered suitable food. That requirement is based on consultations with the Marine Mammal Commission, USDA, and marine mammal experts, and is for the purpose of humane and healthful transport.

#### Comments Pertaining to § 14.133: Care in Transit

One commenter strongly supported the requirement that an attendant accompany a marine mammal at all times, but recommended further that the carrier be required to inform the crew of the presence of a marine mammal and that the attendant be provided with access to the animal and be informed of any unexpected delays. The Service agrees that any attendant traveling with any shipment should be provided with access to the animal, and has modified § 14.109 (Care in transit) accordingly. In the case of notifying the crew of the presence of a marine mammal, the Service considers it the responsibility of the carrier to notify the crew of the presence of any animal and that in all cases animals and their humane care should take precedence over that of inanimate cargo; the Service has modified § 14.105(d) (Consignment to carrier) accordingly.

#### Comments Pertaining to §§ 14.141-14.142: Specifications for Elephants and Ungulates

##### Comments Pertaining to § 14.142: Primary Enclosures

Two commenters objected to not allowing more than one elephant or ungulate in a primary enclosure, claiming that ungulates and animals experience less stress if they are shipped together. The commenters suggested allowing pairs or groups that have been habitually housed together to be shipped together. The Service agrees that young elephants that have been habitually housed together could be shipped together, but is concerned that this must be combined with real humane concerns about creating a loophole that would stimulate overcrowding and resultant inhumane and unhealthful transport. In addition, in the case of transport by sea or land conveyance, young elephants and ungulates are better off if shipped together. Therefore, the Service has modified § 14.142(b) to allow a pair of juvenile animals or other pairs that have been habitually housed together to be shipped in the same primary enclosure for land or sea transport. It is the responsibility of the shipper or carrier (in this case and in other cases when applicable) to provide the Service, upon request, with evidence that these animals have been habitually housed together.

One commenter recommended that in addition to requiring that an enclosure not be large enough for an elephant or ungulate to roll over, it not be large enough for an ungulate to turn around,



since an enclosure that is too large could be dangerous to an ungulate. The Service does not consider this necessary, since if a primary enclosure is not large enough for an animal to roll over, it will certainly not be large enough for it to move around excessively. The Service does not want to limit enclosure sizes to the point that normal postural adjustments are precluded.

One commenter opposed allowing food or water containers to be hung within the enclosure above the floor since elephants may injure themselves. The same commenter recommended that, as in the case of marine mammals, elephants be accompanied by an attendant at all times, who could provide an elephant with food or water using a bucket. The Service will continue to explore this issue and, if warranted, may propose such a requirement in the next revision of this rule.

#### **Comments Pertaining to § 14.151: Specifications for Sloths, Bats, and Flying Lemurs**

One commenter questioned the need to list flying lemurs separately here since they are not imported for exhibition purposes and could easily be included with other terrestrial mammals in § 14.161. The Service has decided however to keep flying lemurs with sloths and bats for consistency since the IATA LAR container requirements for bats and flying lemurs are combined and all three of these species require a bar or perch to hang from.

#### **Comments Pertaining to § 14.161: Other Terrestrial Mammals**

One commenter recommended that it be specifically stated that species should not be mixed. The Service believes that this requirement already exists since this subsection requires that no more than one sloth, bat, or flying lemur shall be transported in a primary enclosure, notwithstanding certain exceptions.

One commenter opposed the requirement for a device for sloths to hang by which could be potentially dangerous. The Service disagrees and considers the requirement broad enough to allow for any type of wide perch, bar, or mesh for an animal to hang from. The Service believes that sloths require either a perch or bar to hang from and is not aware of any cases of inhumane or unhealthful transport of sloths resulting from the presence of a perch or bar.

#### **Comments Pertaining to § 14.161: Specifications for Other Terrestrial Mammals**

One commenter requested a new section specifying temperature minima of 50 degrees F (10 degrees C) for all terrestrial mammals. The Service has set a minimum ambient air temperature of 55 degrees F (12.8 degrees C) for all terrestrial mammals in § 14.109(b).

One commenter recommended that pairs or groups of terrestrial mammals that have been habitually housed together may be shipped together. Such animals may be shipped together, in the case of in the same shipment, but they may not be shipped in the same primary enclosure. The rule allows only rodents to be transported in the same primary enclosure. The Service is not aware of other groups of species of terrestrial mammals that it would be more humane or healthful to ship them in higher densities than to ship them singly. One commenter claimed that hedgehogs and hyrax should be able to be shipped in pairs or compatible groups. The Service disagrees and is aware of significant aggression between members of these species, including cannibalism, and considers it in their best interest to always be shipped individually.

One commenter opposed the allowance for more than one rodent per enclosure, considering it to be too stressful for them. The Service disagrees and is aware that rodents that are compatible can and have been shipped humanely and healthfully within the specified density guidelines. Insufficient information is available at this time to indicate a need to change the rule; the Service will continue to monitor this situation.

One commenter questioned why the density requirements in § 14.161(c) differ from those in the IATA Live Animals Regulations (LAR). These regulations are actually a simplification of the IATA LAR density guidelines in IATA Container Note number 26, and the Service does not believe them to be contradictory in any way.

#### **Comments Pertaining to §§ 14.171-14.172: Specifications for Birds**

##### **Comments Pertaining to § 14.171: Consignment to Carrier**

One commenter requested that the Service limit lot sizes rather than just numbers per enclosure, noting that this would improve care for individual animals and reduce the risk of disease transmission. The commenter questioned whether any carrier, shipper, or importer is capable of adequately looking after a single shipment of 15,000 birds. Shipments of this size currently

occur. The Service is aware that higher mortality rates often occur in shipments with very large numbers of birds, although high mortalities also do occur in smaller shipments. The Service will continue to explore this issue and may propose such a requirement in the next revision of this rule.

Two commenters opposed the exemption from veterinary inspection for pet birds, claiming that there is no scientific basis and disease and injury could result. The Service agrees that pet birds also require a certificate of veterinary inspection and notes that the rule only exempts a personally owned pet bird originally transported from the United States and being returned to this country with its original United States certificate of veterinary inspection within 60 days of departure.

One commenter recommended that the owner of a bird, and not the veterinarian, be able to certify that the bird has been held in captivity for at least 14 days. The Service is aware that for personally owned pet birds, the owner knows that the bird has been held in captivity for at least 14 days. However, for commercial consignments, the Service is unaware of how to authenticate such a determination without requiring it as part of the veterinary certificate. If the shipper is allowed to certify that the birds have been acclimated to captivity for at least 14 days, without veterinary corroboration, the Service is concerned about the potential for intentional misrepresentation. Another commenter recommended that any appropriate government authority, rather than specifically the national government, be able to authorize veterinarians. The Service disagrees and refers the public to the discussion of comments pertaining to § 14.105(a), above.

##### **Comments Pertaining to § 14.172: Primary Enclosures**

One commenter supported the ventilation requirements as proposed. Another claimed that the requirement in § 14.172(a) that a primary enclosure have ventilation openings on two vertical sides that comprise at least 16 percent of the surface area of each side eliminates slanted sides for ventilation purposes. The Service believes that this requirement has been misinterpreted by the commenter; a slanted or sloped side, while not required, is recommended for birds, since it allows for greater ventilation. Another commenter claimed that this requirement contradicts the IATA container requirements for birds. The Service disagrees; an enclosure that fully satisfies the IATA LAR container



requirements for birds will also satisfy this subsection.

Two commenters objected to requiring perches for birds that rest by perching, claiming that birds could be thrown off and perches are unnecessary. Two other commenters supported the rule as proposed. The Service considers perches to be necessary for the humane transport of birds that rest by perching, which is consistent with the IATA LAR for psittacines, which states that "Wooden perches shall be provided for such birds that rest by perching." Four commenters supported the requirement in § 14.172(c) that an enclosure used to transport one or more birds that rest by perching be large enough to ensure that sufficient perch space is available for all birds to perch comfortably at the same time. Three commenters recommended that the Service add the requirement that space be adequate to allow birds to stretch their wings, in a space equal to the width of the bird itself; another commenter recommended that birds be given the amount of perching space twice that required if the birds were perching side by side on the perch. The Service considers these recommendations both impracticable to enforce and redundant with the proposal. The space requirement for birds that rest by perching should be seen in the context of the density limitations. The Service notes that birds cannot perch comfortably at the same time unless sufficient space exists to stretch their wings and move onto and off the perch easily; it is the regulatory requirement of space to stretch their wings that has been removed due to its unenforceability and not the awareness that birds must be able to stretch their wings.

One commenter opposed the elimination of the requirement that the enclosure be large enough to permit perching without tail feathers being damaged, suggesting a complex requirement incorporating consultation with a local field guide to determine the size of a species and appropriate enclosure size. The Service believes that requirement to have been both unenforceable and easily circumvented by cutting the tail feathers. The Service notes that § 14.103 states that it is unlawful to transport or cause to be transported to the United States any wild mammal or bird under inhumane or unhealthful conditions; transport conditions whereby a bird becomes injured are *de facto* inhumane and/or unhealthful.

#### Comments Pertaining to § 14.172(c): Densities in Primary Enclosures

A typographical error was made in this subsection. In the preamble to the proposed rule of October 15, 1990, it was correctly stated that psittacine birds longer than 23 cm (9 inches) are to be limited to 25 birds in any one enclosure; the actual proposed rule stated that the size limit is 25 cm. The Service hereby corrects the size to 23 cm, which is the same as 9 inches, and is the size cut-off in the IATA LAR.

Six commenters were very supportive of the density maxima (25 for larger birds; 50 for smaller birds). Two other commenters recommended replacing this requirement with one that lists specific genera rather than size cutoffs. Two other commenters suggested listing the lengths and weights of common bird species and then giving size-specific density guidelines. The Service considers such proposed solutions to the problems of overcrowding to be too complicated and difficult to implement or enforce. The Service prefers utilizing an international standard such as that in the IATA LAR. Furthermore, insufficient information is available at this time to indicate a need to change the rule; the Service will continue to monitor this issue and will consider any information on inhumane or unhealthful shipment of birds that would support future amendments to these regulations.

Two commenters supported the 25/50 limits, but recommended that they apply to compartments within an enclosure and not the entire primary enclosure. The Service strongly disagrees. The intent is to reduce mortalities due to crowding and lack of sufficient ventilation: allowing more and more birds to be crowded into smaller compartments or allowing a rule to be contravened by placing dividers within an enclosure is contrary to the intent of this rule and poses too great a risk of inhumane or unhealthful treatment. Another commenter recommended replacing "psittacines" with "birds," because § 14.172(c) refers to birds that rest by perching, which are not limited to psittacines. The Service agrees and has adjusted the rule accordingly. The Service also reminds the public that these are density maxima, and not recommended average densities.

#### Comments Pertaining to § 14.172(d): Raptors

One commenter was supportive of the requirement that only one raptor be shipped per primary enclosure. Another claimed that small raptors like owls can be shipped together without problems. The Service believes that owls or other

raptors are better off shipped separately; furthermore, in keeping with the IATA LAR, the Service will retain the one raptor per enclosure requirement. The Service will continue to explore and monitor this issue and may propose a change in this requirement in the future.

Two commenters noted that this subsection contradicts the IATA LAR requirement which states that "the container shall be large enough to carry one bird and permit it to turn without stretching its wings to the fullest extent." The commenters noted that requiring eagles, condors, or other large raptors to have space to stretch their wings is both impractical and dangerous. Another noted that the containers commonly used for raptors allow for a full upright position, but do not allow the birds to spread their wings out. Five more commenters noted that if a raptor can fully extend its wings, it may injure itself. The Service accepts these critical concerns and has modified the rule to reflect the danger to raptors of excessive space. Another commenter recommended adding a requirement that raptors be provided with limited access to light. That requirement already exists in the IATA LAR (Container requirement 56) by requiring a burlap curtain which can be lowered over the front of the container. The Service does not consider it necessary to incorporate the light access requirement into the rule, which is normal practice for species for which it is appropriate. The Service will consider any information on inhumane or unhealthful shipment of raptors that would support future amendments to these regulations.

#### Comments Pertaining to § 14.172(e): Nonperching, Nonraptorial Birds

One commenter recommended deleting the requirement of space for these birds to stand fully erect, claiming that excessive crate height could result for some species, without explaining in what way large crates could be unhealthful or inhumane. The Service believes that birds should have sufficient space to stand erect, and that crates must be designed accordingly and for the individual animal. The commenter recommended greater flexibility since some species are shipped in stockings with their legs folded, which could be considered a violation of the requirement that they be able to change posture in a normal manner. The Service is aware of cases where greater immobilization of birds is preferable, but is also aware of cases where inappropriate immobilization has caused either injury or death. The



Service will continue to explore this issue and will consider any information on inhumane or unhealthful shipment of non-perching, non-raptorial birds that would support future amendments to these regulations, including possibly requiring an attendant with all shipments of birds that require immobilization.

Two commenters recommended limiting the numbers of non-raptorial, non-perching birds per primary enclosure, citing cases of shipments of ducks where some suffocated because birds piled up on one another. The Service strongly agrees with limiting densities of these birds. The IATA LAR limits ducks to two per compartment within a primary enclosure, while other birds, as appropriate for their species, are limited to one per enclosure. Section 14.106(a) requires that the current Container Requirements of the Live Animal Regulations (LAR) adopted by the International Air Transport Association (IATA) be complied with by all persons transporting wild mammals or birds to the United States. The Service refers the public to the discussion of comments pertaining to § 14.106(a), above.

Another commenter recommended adding a requirement for light to be able to enter only at the top of the sides of the enclosures, and for the floor to be covered with a material that allows a bird to grip the floor. The Service agrees that such enclosures are appropriate for some species of birds, but does not want to expand the regulations to be overly species-specific, complex, and difficult to enforce. Such conditions of transport, if in the individual bird's best interest, should be utilized. The Service notes that these regulations constitute minimum requirements and it should be the responsibility of the shipper, the carrier, and the importer to ensure that a wild animal is transported under the most humane and healthful conditions possible.

#### Comments Pertaining to § 14.172(g): Species Mingling

Three commenters supported this requirement as proposed, wherein birds transported in the same primary enclosure shall be of the same species and be compatible with one another. Three commenters noted that it is common to mix bird species, especially for finches and lovebirds. One commenter questioned the Service's evidence that species cannot be commingled. The Service is aware that interspecific aggression in birds can be a factor increasing stress during shipment and that increased stress can lead to injury, disease, and death. Insufficient

information is available at this time to indicate a need to change the rule; the Service will continue to monitor this situation. The proper identification of species in transport, which is critical for the enforcement of both the Lacey Act and the Endangered Species Act, necessitates the separation of species in primary enclosures, although mixing in shipments as opposed to enclosures is acceptable.

#### Comments on Typographical Errors

Seven typographical errors were noted by commenters, that were also noted by the Service. They were of an editorial and non-substantive nature that had no impact on the public's ability to understand the proposed rule; the changes have been made in the final rule.

#### Miscellaneous Comments

One commenter recommended the use of the checklist recommended in CITES Resolution Conf. 7.13. The Service agrees, but notes that the checklist is applicable to only those species listed in the CITES Appendices. The use of the checklist will be proposed in proposed amendments to 50 CFR part 23, which are under review within the Service at this time.

One commenter questioned whether this subpart J refers to only import of wild mammals and birds or also re-import of previously exported specimens. The Service notes that the Lacey Act Amendments of 1981 (Pub. L. 87-79, 95 Stat. 1073), enacted on November 16, 1981, make no distinction between import and re-import. Therefore, this subpart J refers to all transport of wild mammals and birds to the United States.

One commenter requested an exemption from this subpart J for entities licensed by the USDA under the Animal Welfare Act that export and re-import specimens, such as circuses. The Service strongly disagrees. There is insufficient evidence to warrant exempting circuses from humane and healthful transport requirements; indeed, ample evidence of inhumane and unhealthful transport problems with some circuses and other entities licensed under the Animal Welfare Act strongly supports their inclusion. In addition, the Animal Welfare Act regulations at this time do not apply to birds, which these regulations cover.

#### Effects of the Rule

A Finding of No Significant Impact was signed on June 1, 1990. The Service determines that this final rule concerning the humane and healthful transport of wild mammals and birds to

the United States is not a major Federal action that would significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act and, therefore, preparation of an Environmental Impact Statement is not required.

#### Executive Orders 12291, 12612, and 12630 and the Regulatory Flexibility Act

It has been determined that the revisions to 50 CFR part 14 do not constitute a "major" rule under the criteria established by Executive Order 12291. The revisions principally represent clarifications of existing provisions that are expected to make compliance more practical and enforcement more efficient. This action is not expected to have significant taking implications, as per Executive Order 12630, since compliance with the revised regulations will have neither greater nor lesser effect on constitutionally protected individual property rights. It has also been certified that these revisions will not have a significant economic effect on a substantial number of small entities as described by the Regulatory Flexibility Act. Small entities are already required to comply with the current regulations. It is expected that the revisions would reduce the burden on small entities by making requirements clearer, but not more stringent. Since the rule applies to importations of live wildlife into the United States, it does not contain any Federalism impacts as described in Executive Order 12612.

#### Paperwork Reduction

This final rule does not contain any increase in information collection or record keeping requirements as defined by the Paperwork Reduction Act of 1980.

#### Author

The author of this final rule is Dr. Susan S. Lieberman, Office of Management Authority, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/358-2095).

#### List of Subjects in 50 CFR Part 14

Exports, Imports, Incorporation by Reference, Labeling, Reporting and recordkeeping requirements, Transportation and Wildlife.

#### Regulation Promulgation

#### PART 14—[AMENDED]

Accordingly, part 14 of chapter I of title 50 of the Code of Federal Regulations is hereby amended to read as follows:



1. The authority citation for part 14 is revised to read as follows:

Authority: 16 U.S.C. 42(c); 16 U.S.C. 3371-3378; 16 U.S.C. 1538(d)-(f); 1540(f); 16 U.S.C. 1382; 16 U.S.C. 705, 712; 31 U.S.C. 483(a).

2. Subpart J is revised to read as follows:

**Subpart J—Standards for the Humane and Healthful Transport of Wild Mammals and Birds to the United States**

**Sec.**

- 14.101 Purposes.
- 14.102 Definitions.
- 14.103 Prohibitions.
- 14.104 Translations.
- 14.105 Consignment to carrier.
- 14.106 Primary enclosures.
- 14.107 Conveyance.
- 14.108 Food and water.
- 14.109 Care in transit.
- 14.110 Terminal facilities.
- 14.111 Handling.
- 14.112 Other applicable provisions.

**Specifications for Nonhuman Primates**

- 14.121 Primary enclosures.
- 14.122 Food and water.
- 14.123 Care in transit.

**Specifications for Marine Mammals (Cetaceans, Sirenians, Sea Otters, Pinnipeds, and Polar Bears)**

- 14.131 Primary enclosures.
- 14.132 Food and water.
- 14.133 Care in transit.

**Specifications for Elephants and Ungulates**

- 14.141 Consignment to carrier.
- 14.142 Primary enclosures.

**Specifications for Sloths, Bats, and Flying Lemurs (Cynocephalidae)**

- 14.151 Primary enclosures.

**Specifications for Other Terrestrial Mammals**

- 14.161 Primary enclosures.

**Specifications for Birds**

- 14.171 Consignment to carrier.
- 14.172 Primary enclosures.

**Subpart J—Standards for the Humane and Healthful Transport of Wild Mammals and Birds to the United States**

**§ 14.101 Purposes.**

The purpose of this subpart is to prescribe requirements necessary to ensure that live wild mammals and birds shipped to the United States arrive alive, healthy, and uninjured, and that transportation of such animals occurs under humane and healthful conditions. These regulations implement section 9(d) of the Lacey Act Amendments of 1981.

**§ 14.102 Definitions.**

In addition to the definitions contained in part 10 of subchapter B of this chapter, in this subpart—

*Ambient air temperature* means the temperature of the air surrounding a

primary enclosure containing a wild mammal or bird.

*Auxiliary ventilation* means cooling or air circulation provided by such means as vents, fans, blowers, or air conditioning.

*Carrier* means any person operating an airline, railroad, motor carrier, shipping line, or other enterprise engaged in the business of transporting any wild mammal or bird for any purpose including exhibition and for any person, including itself.

*Communicable disease* means any contagious, infectious, or transmissible disease of wild mammals or birds.

*Conveyance* means any vehicle, vessel, or aircraft employed to transport an animal between its origin and destination.

*Do not tip* means do not excessively rock or otherwise move from a vertical to a slanting position, knock over, or upset.

*Handle* means feed, manipulate, crate, shift, transfer, immobilize, restrain, treat, or otherwise control the movement or activities of any wild mammal or bird.

*Holding area* means a designated area at or within a terminal facility that has been specially prepared to provide shelter and other requirements of wild mammals or birds being transported to the United States and in which such mammals or birds are maintained prior to, during, or following such shipment.

*Kept clean* means maintained free from dirt, trash, refuse, excreta, remains from other cargo, and impurities of any type.

*Marine mammal* means an individual of a species of the orders Cetacea, Pinnipedia, or Sirenia, or a polar bear (*Ursus maritimus*) or sea otter (*Enhydra lutris*).

*Noncompatible* means not capable of existing together in harmony.

*Nonhuman primate* means any nonhuman member of the order Primates.

*Normal rigors of transportation* means the stress that a wild animal can be expected to experience as a result of exposure to unaccustomed surroundings, unfamiliar confinement, caging, unfamiliar sounds, motion, and other conditions commonly encountered during transport.

*Primary enclosure* means any structure used to restrict a mammal or bird to a limited amount of space, such as a cage, room, pen, run, stall, pool, or hutch.

*Professionally accepted standards* means a level of practice established as acceptable by a body of qualified persons of the veterinary medical profession.

*Psychological trauma* means an episode of exposure to stressful conditions resulting in significant behavioral abnormality including, but not limited to, manifestations of unaccustomed aggressiveness, self-mutilation, or refusal of food or water.

*Raptor* means a live migratory bird of the order Falconiformes or the order Strigiformes.

*Sanitize* means to make physically clean and, as far as possible, free of toxic or infectious agents injurious to the health of wild mammals or birds.

*Scheduled departure time* means the time listed on a timetable of departures and arrivals or, in the absence of a timetable, the time of departure agreed to by a carrier and shipper.

*Shipper* means any person, other than a carrier, involved in the transport of wild animals to the United States regardless of the purpose of such transport; e.g., exporter, importer, or agent.

*Terrestrial mammals* means mammals other than marine mammals.

*Transport* means to move, convey, carry, or ship by any means, or to deliver or receive for the purpose of movement, carriage, or shipment, by air, land, or sea.

*Transporting device* means any vehicle or device used to transport an animal between a conveyance and a terminal facility, in and around a terminal facility of a carrier, or within a conveyance.

*Unweaned* means a bird or mammal incapable of feeding itself independently.

*Wild* means the same as fish or wildlife, as defined in § 10.12 of this chapter.

**§ 14.103 Prohibitions.**

Unless the requirements of this subpart are fully satisfied and all other legal requirements are met, it is unlawful for any person to transport to the United States, cause to be transported to the United States, or allow to be transported to the United States any live wild mammal or bird. It shall be unlawful for any person to import, to transport, or to cause or permit to be transported to the United States any wild mammal or bird under inhumane or unhealthful conditions or in violation of this subpart J.

**§ 14.104 Translations.**

Any certificate or document required by this subpart to accompany a mammal or bird transported to the United States and written in a foreign language must be accompanied by an accurate English translation.



**§ 14.105 Consignment to carrier.**

(a) No carrier shall accept any live wild mammal or bird for transport to the United States that has not been examined within 10 days prior to commencement of transport to the United States by a veterinarian certified as qualified by the national government of the initial country from which the mammal or bird is being exported. If the national government of such country does not certify veterinarians, then the veterinarian must be certified or licensed by a local government authority designated by the national government as authorized to certify veterinarians.

(b)(1) A certificate of veterinary medical inspection, signed by the examining veterinarian, stating that the animal has been examined, is healthy, appears to be free of any communicable disease, and is able to withstand the normal rigors of transport must accompany the mammal or bird; the certificate should include the veterinarian's license number, certification number, or equivalent. A mammal in the last third of its pregnancy, if this is detectable using professionally accepted standards, shall not be accepted for transport to the United States except for medical treatment and unless the examining veterinarian certifies in writing that the animal has been examined, the state of pregnancy has been evaluated, and that, despite the medical condition requiring treatment, the animal is physically able to withstand the normal rigors of transportation to the United States.

(2) A nursing mother with young, an unweaned mammal unaccompanied by its mother, or an unweaned bird shall be transported only if the primary purpose is for needed medical treatment and upon certification in writing by the examining veterinarian that the treatment is necessary and the animal is able to withstand the normal rigors of transport. Such an unweaned mammal or bird shall not be transported to the United States for medical treatment unless it is accompanied at all times by and completely accessible to a veterinary attendant.

(c) A sick or injured wild mammal or bird shall be permitted transport to the United States only if the primary purpose of such transport is for needed medical treatment and upon certification in writing by the examining veterinarian that the treatment is necessary and the animal is able to withstand the normal rigors of travel in its present condition. A sick or injured animal shall be accompanied at all times throughout the transport process by a veterinary attendant qualified to care for and treat

it, with continuous access to the animal. This individual shall be in possession of or have ready access to all medications to be administered during the transport.

(d) No carrier shall accept any wild mammal or bird for transport to the United States presented by the shipper less than 2 hours or more than 6 hours prior to the scheduled departure of the conveyance on which it is to be transported. The carrier shall notify the crew of the presence of live animal shipments.

**§ 14.106 Primary enclosures.**

No carrier shall accept for transport to the United States any live wild mammal or bird in a primary enclosure that does not conform to the following requirements:

(a) The Container Requirements of the Live Animal Regulations (LAR), 18th Edition, July 1, 1991, published by the International Air Transport Association (IATA) shall be complied with by all parties transporting wild mammals or birds to the United States. The incorporation by reference of the LAR was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from IATA, 2000 Peel St., Montreal, Quebec, Canada H3A 2R4. Copies may be inspected at the U.S. Fish and Wildlife Service, 4401 N. Fairfax Dr., Arlington, VA 22203 or at the Office of the Federal Register, 1100 L St., NW., room 8401, Washington, DC.

(b) A primary enclosure shall be constructed so that—

(1) The strength of the enclosure is sufficient to contain the mammal or bird and to withstand the normal effects of transport;

(2) The interior of the enclosure is free from any protrusion that could be injurious to the mammal or bird within;

(3) No part of the animal can extend or protrude outside of the primary enclosure which may result in injury to the contained animal, to nearby persons or animals, or to handlers of the primary enclosure;

(4) Access to the primary enclosure is closed and secured with an animal-proof device designed to prevent accidental opening and release of the mammal or bird;

(5) The opening of the enclosure is easily accessible for either emergency removal or inspection of the mammal or bird by authorized personnel without the risk of escape of the mammal or bird;

(6) The enclosure has sufficient openings to ensure adequate circulation of air at all times.

(7) The material of which the primary enclosure is constructed is not treated

with any paint, preservative, or other chemical that is injurious or otherwise harmful to the health or well-being of mammals and birds.

(c) Unless the enclosure is permanently affixed in the conveyance or has an open top for certain large mammals, spacer bars allowing circulation of air around the enclosure shall be fitted to the exterior of its top, sides, and base. Spacer bars on an enclosure need extend no more than 6 inches (15 centimeters) from the surface of the enclosure. Within this 6-inch limit, the spacers on an enclosure containing one animal shall extend a distance equal to at least 10 percent of the longer dimension of the surface to which they are attached, and the spacers on an enclosure containing more than one animal shall extend a distance equal to at least 20 percent of the longer dimension of the surface to which they are attached. Hand-holds may serve as spacer bars for the sides of the enclosure to which they are attached. A primary enclosure constructed with one or more slanted or curved walls containing ventilation openings need not be fitted with spacer bars on such walls.

(d) An enclosure that is not permanently affixed within the conveyance shall have adequate hand-holds or other devices for lifting by hand or to facilitate lifting and carrying by machine. Such hand-holds or other devices shall be made an integral part of the enclosure, shall enable it to be lifted without excessive tipping, and shall be designed so that the person handling the enclosure will not come in contact with the animals contained therein.

(e) An enclosure shall have a solid, leak-proof bottom or removable, leak-proof collection tray under a slatted or wire mesh floor. The slatted or wire mesh floor shall be designed and constructed so that the spaces between the slats or the holes in the mesh cannot trap the limbs of animals contained within the enclosure. An enclosure for mammals shall contain unused absorbent litter on the solid bottom or in the leak-proof tray in sufficient quantity to absorb and cover excreta. This litter shall be safe and nontoxic and shall not resemble food normally consumed by the mammals. An enclosure used to transport marine mammals in water, in a waterproof enclosure, a sling, or on foam is exempt from the requirement to contain litter. An enclosure used to transport birds shall not contain litter, unless it is specified in writing by the examining veterinarian as medically necessary.

(f) If an enclosure has been previously used to transport or store wild mammals



or birds, it shall have been cleaned and sanitized in a manner that will destroy pathogenic agents and pests injurious to the health of mammals and birds before the enclosure can be re-used.

(g) An enclosure that is not permanently affixed in the conveyance shall be clearly marked in English on the outside of the top and one or more sides of the enclosure, in letters not less than 2.5 centimeters (1 inch) in height, "Live Animals" or "Wild Animals", "Do Not Tip," "Only Authorized Personnel May Open Container," and other appropriate or required instructions. All enclosure sides shall also be conspicuously marked on the outside with arrows to indicate the correct upright position of the enclosure. These arrows should extend up the sides of the enclosure so that the point of the arrow is visible and clearly indicates the top of the enclosure.

(h) Food and water instructions as specified in § 14.108, information regarding what constitutes obvious signs of stress in the species being transported, and information about any drugs or medication to be administered by the accompanying veterinary attendant shall be securely attached to each enclosure. Copies of shipping documents accompanying the shipment shall also be securely attached to the primary enclosure. Original documents shall be carried in the carrier's pouch or manifest container or by the shipper's attendant accompanying the wild mammal or bird.

(i) Any food and water troughs shall be securely attached to the interior of the enclosure in such a manner that the troughs can be filled from outside the enclosure. Any opening providing access to a trough shall be capable of being securely closed with an animal-proof device. A water trough in an enclosure containing birds shall contain a foam or sponge insert, a perforated wooden block, or other suitable device to prevent spillage or drowning.

(j) When a primary enclosure is permanently affixed within a conveyance so that its front opening is the only source of ventilation, the opening shall face the outside of the conveyance or an unobstructed aisle or passageway within the conveyance. Such an aisle or passageway shall be at least 12 inches (30 centimeters) wide. The opening in the primary enclosure shall occupy at least 90 percent of the total surface area of the front wall of the enclosure and be covered with bars or wire mesh.

#### § 14.107 Conveyance.

(a) The animal cargo space of a conveyance used to transport wild

mammals or birds to the United States shall be designed, constructed, and maintained so as to ensure the humane and healthful transport of the animals.

(b) The cargo space shall be constructed and maintained so as to prevent the harmful ingress of engine exhaust fumes and gases produced by the conveyance.

(c) No wild mammal or bird shall be placed in a cargo space of a conveyance that does not provide sufficient air for it to breathe normally. Primary enclosures shall be positioned in a cargo space in such a manner that each animal has access to sufficient air for normal breathing.

(d) The interior of an animal cargo space shall be kept clean of disease-causing agents.

(e) A wild mammal or bird shall not be transported in a cargo space that contains any material, substance, or device that may reasonably be expected to result in inhumane conditions or be injurious to the animal's health unless all reasonable precautions are taken to prevent such conditions or injury.

#### § 14.108 Food and water.

(a) No carrier shall accept any wild mammal or bird for transport to the United States unless written instructions from the shipper concerning the animal's food and water requirements are securely affixed to the outside of its primary enclosure. Such instructions shall be consistent with professionally accepted standards of care and include specifically the quantity of water required, the amount and type of food required, and the frequency of feeding and watering necessary to ensure that the animal is transported humanely and healthfully.

(b) A mammal or bird requiring drinking water shall have uncontaminated water suitable for drinking made available to it at all times prior to commencement of transport to the United States, during intermediate stopovers, and upon arrival in the United States, or as directed by the shipper's written instructions.

(c) A mammal or bird that obtains moisture from fruits or other food shall be provided such food prior to commencement of transport to the United States, during stopovers, and upon arrival in the United States, or as directed by the shipper's written instructions.

(d) During a stopover or while still in the custody of the carrier after arrival in the United States, a mammal or bird in transit shall be observed no less frequently than once every four hours and given food and water according to the instructions required by § 14.108(a).

(e) Suitable and sufficient food shall be made available during transport.

(f) Additional requirements for feeding and watering particular kinds of animals are found below in the specifications for the various groups.

#### § 14.109 Care in transit.

(a) During transportation to the United States, including any stopovers during transport, the carrier shall visually inspect each primary enclosure not less than once every 4 hours, or in the case of air transport, every 4 hours whenever the cargo hold is accessible. During such inspections, the carrier shall verify that the ambient air temperature is within allowable limits (see § 14.109(b)), that enclosures have not been damaged, that adequate ventilation is being provided, and when transport is by air, that air pressure suitable to support live animals is maintained within the cargo area (pressure equivalent to a maximum altitude of 8000 feet). During these observations the carrier shall also determine whether any animals are in obvious distress as described in documents attached to the enclosure. The absence of such a document or the absence of information as to signs of distress shall not remove this responsibility. The carrier shall attempt to correct any condition causing distress and shall consult the shipper concerning any possible need for veterinary care if no veterinary attendant is traveling with the shipment; if the shipper cannot be reached in the case of an emergency, qualified veterinary care should be provided. A veterinarian or qualified attendant traveling with the shipment shall be provided access to the animal.

(b) Unless otherwise specified in writing by the examining veterinarian the ambient air temperature in a holding area, transporting device, conveyance or terminal facility containing mammals or birds shall not be allowed to fall below 12.8 degrees C (55 degrees F) nor to exceed 26.7 degrees C (80 degrees F). Auxiliary ventilation shall be provided when the ambient air temperature is 23.9 degrees C (75 degrees F) or higher. In the case of penguins and auks, the ambient air temperature shall not be allowed to exceed 18.3 degrees C (65 degrees F) at any time, and auxiliary ventilation shall be provided when the ambient air temperature exceeds 15.6 degrees C (60 degrees F). In the case of polar bears and sea otters, ambient air temperature shall not be allowed to exceed 10 degrees C (50 degrees F).

#### § 14.110 Terminal facilities.

(a) Any terminal facility used for wild mammal or bird transport in the country



of export, stopover countries, or the United States shall contain an animal holding area or areas. No carrier or shipper shall co-mingle live animal shipments with inanimate cargo in an animal holding area.

(b) A carrier or shipper holding any wild mammal or bird in a terminal facility shall provide the following:

(1) A holding area cleaned and sanitized so as to destroy pathogenic agents, maintained so that there is no accumulation of debris or excreta, and in which vermin infestation is minimized;

(2) An effective program for the control of insects, ectoparasites, and pests of mammals or birds;

(3) Sufficient fresh air to allow the animals to breathe normally with ventilation maintained so as to minimize drafts, odors, and moisture condensation;

(4) Ambient air temperatures maintained within prescribed limits as specified in § 14.109(b).

#### § 14.111 Handling.

(a) Care shall be exercised to avoid handling the primary enclosure in a manner likely to cause physical or psychological trauma to the mammal or bird.

(b) A primary enclosure used to move any mammal or bird shall not be dropped, tipped excessively, or otherwise mishandled, and shall not be stacked or placed in a manner that may reasonably be expected to result in its falling or being tipped.

(c) Animals incompatible with one another shall not be crated together or held in close proximity.

(d) Transport of mammals or birds to the United States shall be accomplished by the carrier in the most expeditious manner, with the fewest stopovers possible, and without unnecessary delays.

(e) Consistent with other procedures and requirements of the carrier, live wild mammals or birds shall be last loaded and first unloaded from a conveyance.

(f) A carrier shall not allow mammals or birds to remain for extended periods of time outside a holding area and shall move them between a holding area and a conveyance as expeditiously as possible. A carrier or shipper maintaining mammals or birds in a holding area, or transporting them to or from a holding area or between a holding area and a conveyance, shall provide the following:

(1) Shelter from sunlight. When sunlight is likely to cause overheating or discomfort, sufficient shade shall be

provided to protect animals from the direct rays of the sun.

(2) Shelter from precipitation. Animals shall be provided protection so that they remain dry during rain, snow, or other forms of precipitation.

(3) Shelter from cold. Animals shall be provided protection from cold.

Protection shall include, but not be limited to, that provided by covering and/or heating of transporting devices, holding areas, conveyances or terminal facilities.

(4) Protection from harassment. Animals shall be protected from disturbances, including, but not limited to, harassment by humans, other animals, or machinery that makes noise, emits fumes, heat, or light, or causes vibration.

#### § 14.112 Other applicable provisions.

In addition to the provisions of §§ 14.101-14.111, the requirements of §§ 14.121-14.172 applicable for particular groups of animals shall be met for all shipments of wild mammals and birds covered by this part.

#### Specifications for Nonhuman Primates

##### § 14.121 Primary enclosures.

(a) No more than one primate shall be transported in a primary enclosure. However, a mother and her nursing young being transported to the United States for medical treatment, an established male-female pair, a family group, a pair of juvenile animals that have not reached puberty, or other pairs of animals that have been habitually housed together may be shipped in the same primary enclosure. Primates of different species shall not be shipped together in the same enclosure.

(b) A primary enclosure used to transport a primate shall be large enough to ensure that the animal has sufficient space to turn around freely in a normal manner, lie down, stand up (as appropriate for the species), and sit in a normal upright position without its head touching the top of the enclosure. However, a primate may be restricted in its movements according to professionally accepted standards of care when greater freedom of movement would constitute a danger to the primate or to its handler or other persons.

(c) Except as provided in § 14.106(j), ventilation openings must be located on at least two walls of a primary enclosure. When the required ventilation openings are located on two opposite walls of the primary enclosure, these ventilation openings shall comprise at least 30 percent of the total surface area of the ventilated wall and be situated above the midline of the enclosure. If ventilation openings are

located on all four walls of the enclosure, the openings on each wall shall comprise at least 20 percent of the total surface area of the wall and be situated above the midline of the primary enclosure.

#### § 14.122 Food and water.

(a) A nonhuman primate shall be provided water suitable for drinking within 4 hours prior to commencement of transport to the United States unless the shipper's written instructions direct otherwise. A carrier shall provide suitable drinking water to any primate at least every 12 hours after acceptance for transport to the United States, unless instructed in writing to do so more frequently by the shipper.

(b) After acceptance for transport, and unless otherwise instructed in writing by the shipper, a carrier shall provide suitable food to any nonhuman primate at least once every 12 hours.

#### § 14.123 Care in transit.

(a) A primate shall be observed for signs of distress and given food and water according to the shipper's instructions during any intermediate stop that lasts more than 4 hours.

(b) Care shall be taken to keep enclosures containing primates sufficiently separated in the conveyance or holding area to minimize the risk of spread of disease from one species or shipment to another.

#### Specifications for Marine Mammals (Cetaceans, Sirenians, Sea Otters, Pinnipeds, and Polar Bears)

##### § 14.131 Primary enclosures.

(a) A primary enclosure that is not open on top shall have air inlets situated at heights that provide cross ventilation at all levels and that are located on all four sides of the enclosure. Such ventilation openings shall comprise not less than 20 percent of the total surface area of each side of the enclosure.

(b) Straps, slings, harnesses, or other such devices used for body support or restraint when transporting marine mammals such as cetaceans or sirenians shall meet the following requirements:

(1) The devices shall not prevent attendants from having access to the mammal to administer care during transportation;

(2) The devices shall be equipped with sufficient padding to prevent trauma or injury at points of contact with the mammal's body;

(3) Slings or harnesses shall allow free movement of flippers outside of the harness or sling;

(4) The devices shall be capable of preventing the mammal from thrashing



about and causing injury to itself, handlers, or other persons, but shall be designed so as not to cause injury to the mammal.

(c) A primary enclosure used to transport marine mammals shall be large enough to assure the following:

(1) A sea otter or polar bear has sufficient space to turn about freely with all four feet on the floor and to sit in an upright position, stand, or lie in a natural position;

(2) A pinniped has sufficient space to lie in a natural position;

(3) If a sling, harness, or other supporting device is used, there are at least 3 inches (7.5 centimeters) of clearance between any body part and the primary enclosure;

(d) A marine mammal may be restricted in its movements according to professionally accepted standards of care when freedom of movement would constitute a danger to the animal or to handlers or other persons.

(e) All marine mammals contained in a given primary enclosure shall be of the same species and be maintained in compatible groups. A marine mammal that has not reached puberty shall not be transported in the same primary enclosure with an adult marine mammal other than its mother. Socially dependent animals (e.g., siblings, mother, and offspring) transported in the same conveyance shall be allowed visual and, when appropriate for the species, olfactory contact. A female marine mammal shall not be transported in the same primary enclosure with any mature male marine mammal.

#### § 14.132 Food and water.

A marine mammal shall not be transported for more than a period of 36 hours without being offered suitable food unless the shipper's written instructions or the shipper's attendant travelling with the mammal direct otherwise. After feeding, a marine mammal shall be rested for 6 hours prior to resuming transport.

#### § 14.133 Care in transit.

(a) Any marine mammal shall be accompanied, in the same conveyance, by the shipper or an authorized representative of the shipper knowledgeable in marine mammal care to provide for the animal's health and well-being. The shipper or representative shall observe such marine mammals to determine whether or not they need veterinary care and shall provide or obtain any needed veterinary care as soon as possible. Care during transport shall include the following (on a species-specific basis):

(1) keeping the skin moist or preventing the drying of the skin by such methods as covering with wet cloths, spraying it with water or applying a nontoxic emollient;

(2) assuring that the pectoral flippers (when applicable) are allowed freedom of movement at all times;

(3) making adjustments in the position of the mammal when necessary to prevent necrosis of the skin at weight pressure points; and

(4) calming the mammal to prevent struggling, thrashing, and other activity that may cause overheating or physical trauma.

(b) Unless otherwise directed by a shipper or authorized representative, at least one-half of the floor area in a primary enclosure used to transport sea otters to the United States shall contain sufficient crushed ice or ice water to provide each otter with moisture necessary to maintain its hair coat by preventing it from drying and to minimize soiling of the hair coat with urine and fecal material.

(c) A marine mammal exhibiting excited or otherwise dangerous behavior shall not be taken from its primary enclosure except under extreme emergency conditions and then only by the shipper or other authorized individual who is capable of handling the animal safely.

#### Specifications for Elephants and Ungulates

##### § 14.141 Consignment to carrier.

Species that grow antlers shall not be accepted for transport unless the antlers have been shed or surgically removed.

##### § 14.142 Primary enclosures.

(a) Except as provided in § 14.106(j), ventilation openings must be located on at least two walls of a primary enclosure. When the required ventilation openings are located on two opposite walls of the primary enclosure, these ventilation openings shall comprise at least 16 percent of the total surface area of each ventilated wall. When ventilation openings are located on all four walls of the primary enclosure, the openings shall comprise at least 8 percent of the total surface area of each wall. At least one-third of the minimum area required for ventilation shall be located on the lower one-half of the primary enclosure and at least one-third of the total minimum area required for ventilation shall be located on the upper one-half of the primary enclosure.

(b) No more than one elephant or ungulate shall be transported in a primary enclosure, except that: a mother and nursing young may be shipped in

the same primary enclosure if the shipment complies with the provisions of § 14.105(b); in the case of land or sea transport, a pair of juvenile elephants or ungulates or other pairs that have been habitually housed together may be shipped in the same primary enclosure.

(c) A primary enclosure used to transport an elephant or ungulate shall be large enough to allow the animal to lie or stand in a natural upright position with the head extended, but not large enough for the animal to roll over.

(d) A primary enclosure used to transport an elephant or ungulate with horns or tusks shall be designed and constructed to prevent the horns or tusks from becoming trapped or injuring the animal itself, other animals nearby, attendants, or cargo handlers.

(e) A primary enclosure for an elephant or ungulate shall be equipped with a removable water trough that can be securely hung within the enclosure above the floor and can be filled from outside the enclosure.

#### Specifications for Sloths, Bats, and Flying Lemurs (Cynocephalidae)

##### § 14.151 Primary enclosures.

(a) Except as provided in § 14.106(j), ventilation openings must be located on at least two walls of a primary enclosure. When the required ventilation openings are located on two opposite walls of the primary enclosure, these ventilation openings shall comprise at least 16 percent of the total surface area of the ventilated wall. When ventilation openings are located on all four walls, the openings shall comprise at least 8 percent of the total surface area of each wall. At least one-third of the total minimum area required for ventilation of the primary enclosure shall be located on the upper one-half of the primary enclosure.

(b) No more than one sloth, bat, or flying lemur (Cynocephalidae) shall be transported in a primary enclosure. However, a mother and her nursing young being transported for medical reasons, an established male-female pair, a family group, a pair of juvenile animals that have not reached puberty, or other small groups of animals that have been habitually housed together may be shipped in the same primary enclosure.

(c) A primary enclosure used to transport sloths, bats, or flying lemurs shall be large enough to ensure that each animal has sufficient space to move freely and in a normal manner and shall have a wide perch, bar, or mesh of suitable strength fitted under the top of the enclosure and spaced from it in such



a way that the animals may hang from it freely in a natural position.

#### Specifications for Other Terrestrial Mammals

##### § 14.161 Primary enclosures.

(a) Except as provided in § 14.106(j), ventilation openings must be located on at least two walls of a primary enclosure. When the required ventilation openings are located on two opposite walls of the primary enclosure, these ventilation openings shall comprise at least 16 percent of the total surface area of each ventilated wall. When openings are located on all four walls of the enclosure, the openings shall comprise at least 8 percent of the total surface area of each wall. At least one-third of the minimum area required for ventilation shall be located on the lower one-half of the enclosure, and at least one-third of the total minimum area required for ventilation shall be located on the upper one-half of the enclosure.

(b) No more than one terrestrial mammal (other than rodents) shall be transported in a primary enclosure. However, a mother and her nursing young may be shipped in the same primary enclosure if the shipment complies with the provisions of § 14.105(b).

(c) More than one rodent may be transported in the same primary enclosure if they are members of the same species and are maintained in compatible groups. Rodents that are incompatible shall be transported in individual primary enclosures that are stored and transported so they are visually separated. A female with young being transported for medical reasons shall not be placed in a primary enclosure with other animals. The following chart specifies maximum densities minimum space for transporting rodents that fall within the specified weight limitations. Max.No. refers to maximum number per primary enclosure; Space/animal refers to minimum area of floor space per animal. Rodents weighing more than 5,000 grams shall be transported in individual enclosures.

#### DENSITY GUIDELINES FOR RODENTS

	Max. No.	Space/animal		Ht. of box	
		cm <sup>2</sup>	in <sup>2</sup>	cm	in
wt. in grams of rodent:					
220 or less.....	20	194	30	15	6
220-450.....	12	388	60	20	8
450-1000.....	6	770	120	25	10
1,000-5,000.....	2	2,310	360	30	12

(d) A primary enclosure used to transport terrestrial mammals shall be large enough to ensure that each animal has sufficient space to turn around freely in a normal manner. The height of the primary enclosure shall provide adequate space for the animal to stand upright in a normal posture with space above its head. The length of the primary enclosure shall be great enough to enable the animal to lie in a full prone position.

#### Specifications for Birds

##### § 14.171 Consignment to carrier.

(a) A personally owned pet bird originally transported from the United States and being returned to this country with its original United States certificate of veterinary inspection within 60 days of departure may be accepted by a carrier without a new veterinary examination.

(b) No carrier shall accept for transport to the United States any bird that was captured in the wild unless a qualified veterinarian, authorized by the national government of the country from which the bird is being exported, certifies that the bird has been held in captivity for at least 14 days.

##### § 14.172 Primary enclosures.

(a) A primary enclosure for birds shall have ventilation openings on two vertical sides that comprise at least 16 percent of the surface area of each side and are positioned so as to decrease the likelihood of creating a draft.

(b) Perches shall be provided for birds that rest by perching. The diameter of the perch shall be sufficient to permit the birds to maintain a firm, comfortable grip. Perches shall be placed so that

droppings do not fall into food or water troughs or onto other perched birds. There shall be enough head room to allow the birds to move onto and off the perches without touching the top of the enclosure.

(c) An enclosure used to transport one or more birds that rest by perching shall be large enough to ensure that sufficient perch space is available for all birds to perch comfortably at the same time. No more than 50 birds that rest by perching shall be transported in one primary enclosure, with the exception of large birds (longer than 23 cm, or 9 inches), which are limited to a maximum of 25 per primary enclosure.

(d) A primary enclosure used to transport a raptorial bird shall be large enough to transport the bird comfortably and to permit it to turn around without stretching its wings to the fullest extent. Only one raptorial bird shall be contained in a primary enclosure.

(e) A primary enclosure containing nonraptorial birds that do not rest by perching shall be large enough for the birds to turn around, to lie down, to stand erect, and to change posture in a normal manner.

(f) Nectar-feeding birds shall either be transported in a primary enclosure equipped with feeding bottles accessible from outside the enclosure for replenishment or hand-carried and fed in accordance with the written instructions of the shipper.

(g) Birds transported in the same primary enclosure shall be of the same species and be compatible with one another. Birds that are incompatible shall be placed in individual primary enclosures and these enclosures shall not be stored or transported in visual proximity to one another.

**Note:** This document was received at the Office of the Federal Register on May 19, 1992.

Dated: January 17, 1992.

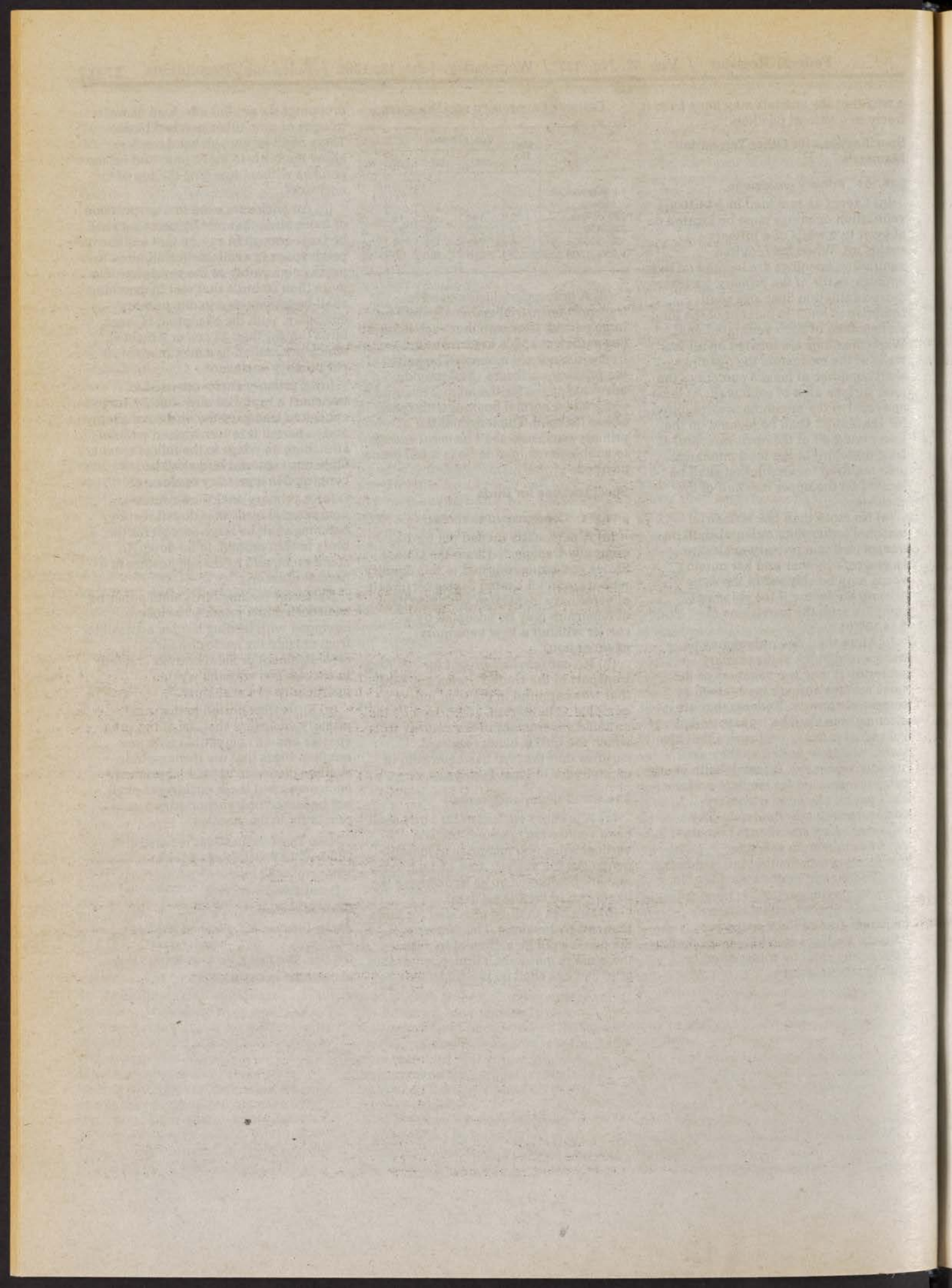
Bruce Blanchard,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 92-12094 Filed 6-16-92; 8:45 am]

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# **federal register**

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**Wednesday  
June 17, 1992**

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## **Part III**

### **Department of Housing and Urban Development**

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**Office of the Assistant Secretary for  
Community Planning and Development**

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#### **24 CFR Part 570**

**Inclusion of Program Income in CDBG  
Calculations of Public Service Spending  
Caps; Homeownership Assistance; Interim  
Rule**



# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

## 24 CFR Part 570

[Docket No. R-92-1593; FR-2905-I-01]

RIN 2506-AB24

## Inclusion of Program Income in CDBG Calculations of Public Service Spending Caps; Homeownership Assistance

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, CPD.

**ACTION:** Interim rule.

**SUMMARY:** This rule amends the regulations for the Community Development Block Grant (CDBG) Program to permit CDBG entitlement recipients to include program income in the base amount of CDBG funds from which the funds available for public services are calculated and to permit CDBG funds to be used for homeownership assistance. Additionally, the rule makes clarifying changes to the CDBG conflict of interest regulations.

**DATES:** Effective July 17, 1992. Comment Due Date: August 17, 1992.

**ADDRESSES:** Interested persons are invited to submit comments regarding this rule to the Rules Docket Clerk, Office of General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Comments should refer to the above docket number and title. An original and four copies of comments should be submitted. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

**FOR FURTHER INFORMATION CONTACT:** James R. Broughman, Director, Entitlement Cities Division, Office of Community Planning and Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708-1577. (This is not a toll-free number.)

### SUPPLEMENTARY INFORMATION:

#### I. Statutory Changes in the Regulations

##### Public Services Cap

Section 908 of the National Affordable Housing Act (Pub. L. 101-625, approved November 28, 1990) (NAHA) amended section 105(a)(8) of the Housing and

Community Development Act of 1974, (42 U.S.C. 5305) (HCD Act), to include program income in the base amount for calculating the maximum amount of CDBG funds that may be used for public service activities. The inclusion of program income in this calculation will increase the amount of CDBG funds a grantee may use for public services.

This provision is being partially implemented by interim regulation at this time so that entitlement grantees may have the immediate benefit of the increased amount of CDBG funds available for public services. Comment is specifically requested on the time period in which program income is received that is to be used in calculating the cap for a particular year, and on how the addition of program income affects the exception to the 15% cap that was earlier provided under § 570.201(e)(3).

In selecting the period over which program income is received that is to be credited for purposes of determining the cap for a grantee, HUD considered three alternatives: program income received during the grantee's program year for which the cap is being determined; program income received during the immediately preceding program year; or, program income received during the program year prior to the immediately preceding program year.

Using program income received during the program year for which the cap is being determined would have precedent in the CDBG program. It is currently used for calculating how much an entitlement grantee may use for planning and administration. (See 24 CFR 570.200(g).) Moreover, in preparing its final statement for a given year, the grantee is required to plan for the use of the amount of program income it expects to receive during that year. (§ 570.301(b)(1)(i)). However, for almost all grantees, there is a significant disparity between the program income estimated and what is reported as actually received in the annual performance reports. Many grantees miss by a very large margin, reflecting the degree to which the grantee cannot control when this income will be received. Grantees frequently contract with smaller non-profit entities for the delivery of public services. For such organizations, it is critical to their survival that they know how much they will receive and when they will receive it. Consequently, many grantees enter into contracts for public services early in the year, and it is much more difficult for the grantee to adjust the amount of funds it obligates for these activities late in the year if it becomes apparent that the amount of income estimated is not

materializing. It is vital, therefore, that grantees have a high level of confidence in the amount of funds that they may use for such services. For these reasons, the use of the income received in the program year for which the cap is being calculated was not selected for this purpose.

For many of the reasons discussed above, the Department has selected the program year immediately preceding the year for which the cap is being determined as the period during which receipts of program income will be credited for this purpose, so that the grantee can have a high level of certainty about the amount available for public services. While it is true that the amount will not be fully known until the end of that program year and the grantee will have to proceed with its citizen participation based on an estimate, the grantee should have a reasonably solid estimate by the time the final statement is submitted. Even more importantly, the amount would be fully known by the time the grantee will need to make contracts for the provision of public services that would be governed by that figure.

The use of a time period that ends one year before the beginning of the program year for which the cap is being determined has one principal advantage: It would offer absolute certainty about the amount of program income receipts during the presubmission, planning stages. But the Department believes this period is too far removed in time from the period in which the obligation of funds for public services is to be measured. A grantee that received even an exceptionally large amount of program income in a given program year could be expected to have programmed and obligated most of those funds by the end of the following program year. Therefore, it would make too little sense to base the determination of the public services limitation on an amount of funds that is not likely even to be available for expenditure on such services.

Accordingly, § 570.201(e) of the Title 24 of the Code of Federal Regulations is being amended to permit CDBG entitlement recipients to use the amount of the program income (as defined at § 570.500(a)) received by the grantee in the program year preceding the program year for which the public services cap is being determined.

The wording of § 570.201(e) is also being changed to eliminate the current impression that public services must meet each of the criteria at § 570.201(e) (1), (2), and (3), because this effect was unintended. Under section 105(a)(8) of



the Act, public services must meet the requirements as stated in § 570.201(e)(1), and those stated in either § 570.201(e) (2) or (3), but they need not meet the requirements of all three. Therefore, existing paragraph (1) has been incorporated into the introductory paragraph to paragraph (e); a statement has been added to (e) that the amount of CDBG funds used for public services shall not exceed newly revised (1) or (2); and paragraph (1) now provides that the amount of program income received during the preceding program year is to be included in the base used for calculating the public services cap for Entitlement grantees.

The exception provision currently at § 570.201(e)(3) allows a grantee (instead of having to follow the general rule of 15%) to determine the cap amount of CDBG funds available to it for public services by using the percentage or amount obligated in Federal fiscal year 1982 or 1983. That provision is changed in this rule to allow entitlement grantees to use the amount authorized under the exception provision plus 15% of the program income received in the program year preceding the year for which the cap is being determined. HUD believes that the intention of the statutory amendment to section 105(a)(8) of the HCD Act is to enable grantees to use 15% of their program income for public services in addition to the amount they could use for such activities before the amendment.

It is arguable that program income should be considered in a different way where the exception provision is applicable. For example, the amount of program income received during fiscal year 1982 or 1983 could be considered for determining whether and how to apply the exception. However, there are several reasons why HUD does not believe that it should be so used: first, during that period, audits and monitoring found a consistent pattern of grantees failing to keep accurate records of program income receipts. Accordingly, it is probable that many of the affected grantees did not keep sufficiently accurate records for this purpose and it would be virtually impossible to reconstruct those figures accurately. It is also important to note that during 1982-83 the regulatory definition of program income was ambiguous. (It was modified to add clarity in 1988.) Finally, a decision to include program income for this purpose could disqualify a grantee that currently uses the exception from being able to continue to do so. (This is because if a grantee that has been qualifying for the exception had received a large amount

of program income during those years, the inclusion of that income could mean that the amount of funds actually used for public services in those years would represent less than 15% of the recomputed base, thus making the grantee ineligible for the exception.) The Department does not believe that such an outcome was intended. Accordingly, the determination of the percent of funds used for public services during those two years would continue to be made only against the amount of grant received for those years, as under the current rule.

This rule does not change the calculation of the public services cap for the HUD-administered, Indian and Insular area CDBG programs. These programs are administered differently than the Entitlement program and require separate consideration. The Department has not received requests for waiver (before enactment of NAHA) to include program income in determining the cap on public services under either of these programs. Therefore, rulemaking will be deferred on how program income will be treated for them, until further thought can be given concerning their unique aspects. To assist the Department in this effort, public comment is specifically invited on whether and how program income should be used in the computation of the public services cap for grantees in these programs.

This rule also does not apply to the State-administered small cities program. Separate rulemaking will be undertaken for that program to implement the new statutory provision.

#### *Homeownership Assistance*

Section 907 of NAHA amended the HCD Act to add a new paragraph (20) to section 105(a). The amendment makes homeownership assistance an eligible activity. Grantees were notified shortly following enactment that they may make use of the new category immediately, based on the clear language of the statutory provision itself. The provision was implemented immediately in that manner and is now being included in the regulations by means of an interim rule because the NAHA provides that the provision is terminated, effective October 1, 1992, or October 1, 1993 if HUD determines that the later date is necessary to continue to provide homeownership assistance until homeownership assistance is available under the HOME program.

A new paragraph (n) is added to § 570.201 making eligible the provision of direct assistance to facilitate and expand homeownership among persons of low and moderate income. The

specific categories of assistance that are made eligible are delineated. Because of the above-mentioned termination date, the regulation limits assistance provided under this authority to that which is provided during the period from November 28, 1990 to September 30, 1992. (If necessary to extend this authority, the Department will revise this provision.)

The provision added in this rule closely follows the language of the statutory provision which authorizes this assistance. Comment is invited on whether clarification is needed on any of the specific forms of assistance made eligible in the rule.

This provision is being added as a new paragraph, because the statute specifically states that assistance provided under this authority shall not be considered a public service. (Before the statutory amendment, grantees could not provide homeownership assistance because it was ineligible under § 570.207(b)(4). When made eligible by being carried out by a subrecipient under § 570.204(c), this category of assistance was considered a public service and was subject to the limitations provided under § 570.201(e).)

#### **II. Changes Not Related to Statutory Amendment**

This rule also incorporates two changes not stemming from statutory amendment: A change to the prohibition against conflicts of interest in the use of CDBG funds; and a broadening of the form in which CDBG funds may be provided for use by subrecipients. Both of these changes are being made at this time in response to a number of comments received from grantees and other interested parties in connection with specific cases involving application of the regulations.

#### *Conflicts of Interest*

While not required by statute, for many years the Department has by regulation prohibited conflicts of interest in the use of CDBG funds. (The regulation does not apply to conflicts in regard to procurement contracts, which are covered by 24 CFR part 85.) Before this rulemaking, 24 CFR 570.611 defined the prohibited conflicts to include the situation where a covered person may obtain a "personal or financial interest or benefit" from a CDBG-assisted activity. The regulation provided no further definition of what might be considered to be a "personal" interest or benefit. This lack of detail led to many questions and a great deal of ambiguity as to the circumstances that would constitute a conflict based on personal



interest or benefit. One of the most problematic areas has been with respect to public officials participating in the affairs of local non-profit organizations. Many grantees make a practice of designating some of their elected or appointed officials to serve on the boards of non-profit organizations that operate in areas they consider to be in the public interest. In such situations, the question arises whether the provision of CDBG funds to a non-profit organization constitutes a conflict because of the presence of a grantee official on the non-profit's board. If the grantee official is not receiving a salary or any other compensation for serving on the board, the only interest or benefit that might be construed for the official would be a personal one. In some cases, HUD determined situations of this kind to constitute a personal interest and thus CDBG funds could not be made available to the non-profit since it would result in a prohibited conflict. However, HUD believes that this kind of public participation often is beneficial and should not be discouraged.

The Department considered the possibility of revising the rule to identify more specifically the kinds of personal interests or benefits that should be prohibited without preventing public official participation of the kind described. An important purpose of the conflicts rule is to protect the reputation of the program from the appearance of providing special treatment or serving special interests. Clearly, there are some situations where even a non-financial interest or benefit could create such an appearance. However, HUD has been unable to identify clear criteria that would serve to distinguish the kinds of personal interest or benefits that should be prohibited in such cases. The Department therefore, believes that the conflict rules should now be limited to the prohibition of situations that provide a financial interest or benefit. Accordingly, in this rule the term "personal" has been removed from § 570.611(b). Public comment is invited on this issue, especially on identifying any specific kinds of non-financial interests or benefits that should be prohibited.

#### *Loans to Subrecipients*

Almost from the beginning of the program, grantees have been involving non-profit organizations in their local CDBG programs. In 1977, the statute was amended to expressly authorize grantees to make subgrants to certain qualified types of subrecipients for neighborhood revitalization or community economic development under section 105(a)(15) of the HCD Act.

In addition, subsection 105(a)(14) of the HCD Act was added authorizing the use of CDBG funds for a broad array of activities carried out by public and private nonprofit entities. In 1983, § 570.200(f) was added to the regulations listing the means by which grantees could carry out eligible activities, including through agreements with public or private entities as subrecipients. In 1987, section 105(a)(15) was amended to permit grantees to make loans to subrecipients qualified under that provision, in addition to subgrants, and the implementing regulation at § 570.204 was amended accordingly. Over time, non-profit organizations have proliferated, and many have become involved in carrying out a wide variety of community and economic development and housing activities. Today, many grantees consider non-profit organizations to be a vital component of their community and economic development strategies. Most CDBG grantees use subrecipients to some degree in carrying out community development activities, and many grantees involve a large number of them in the CDBG program in any given year.

Early in 1991, a question arose concerning whether grantees could lend funds to other kinds of subrecipients than those expressly qualified for loan assistance under § 570.204. An opinion was issued on February 8, 1991 construing the regulations to authorize grantees to make loans only for (1) rehabilitation financing, (2) assistance to for-profits for economic development projects, and (3) subrecipient activities qualified under § 570.204. Several grantees contacted the Department expressing concern about the limitations this imposed on their ability to meet their objectives. They argued that not only do the regulations fail clearly to express such a limitation, but imposing it unduly restricted their flexibility. Two major interest groups (National Association of Counties and National Community Development Association) reacted similarly.

The Department believes that grantees should be given additional flexibility to maximize the impact of the funds available under this program. Therefore, this rule amends § 570.200(f)(1)(ii) to state that grantees may carry out activities through loans or grants under agreements with all subrecipients. Comments are solicited on whether any restrictions should be imposed on the rule.

This rule also makes certain other changes related to subrecipients. In reviewing the matter concerning loans to subrecipients, HUD discovered an

anomaly that can occur when grantees provide funds to subrecipients in the form of loans. The question arises as to the appropriate treatment of program income when the loan proceeds are used in a manner that generates income. For example, when loaned funds are used to purchase property, under the definition of program income in current regulations both the proceeds from the sale of such property and the loan repayments constitute CDBG program income. (24 CFR 570.500(a)(1)). If the recipient wanted to allow the subrecipient to use the program income generated by the sale to repay the loan, it could not do so. This is because program income must be used for activities eligible under the CDBG regulations, and the repayment of such a loan is not an eligible use of CDBG funds. However, the recipient may accomplish the same purpose by having the subrecipient return to the recipient the program income generated by the sale of the property and consider that to satisfy the loan obligation. Because the current definition of program income does not take into account such a transaction, both the sales proceeds received by the subrecipient and the loan repayment received by the recipient could be misconstrued to be program income. This would overstate the actual amount of income to the CDBG program and could be used by the recipient to receive excess credit towards calculating the caps on planning and administration and public services. (24 CFR 570.200(g) and 570.201(e)). (Both of those caps are based, in part, on how much program income is received during a particular period of time.) In order to avoid such an outcome, the definition of program income is amended in this rule at § 570.500(a)(1)(v) and (a)(3) to make clear that when the recipient accepts CDBG program income received by a subrecipient as the fulfillment of an obligation to repay a loan made by the recipient to the subrecipient using CDBG funds, the payments to the grantee are considered to be a transfer of program income from the subrecipient and not additional program income. In a related matter, it was noted that the "reversion of assets" provision required to be included in the agreement between the recipient and the subrecipient makes the subrecipient responsible for "reimbursing" the recipient under certain circumstances. (§ 570.503(b)(8)(ii)) Because it could create confusion as to whether the repayment of the loan, where applicable, would constitute fulfillment of this responsibility, changes are also made in this rule to that provision,



replacing the term "reimbursement" with "payment" and making other conforming changes.

Two other changes related to subrecipients are also being made at this time to clarify current rules. The definition of the term subrecipients at § 570.500(c) is modified to make clear that the term includes entities that receive CDBG funds through another subrecipient as well as those that receive funds from the grantee directly. An amendment is also being made to the requirement at § 570.501(b) concerning the treatment of units of government participating as part of an urban county or metropolitan city. The period of time to be used for such units of government for purposes of assets reversion under § 570.503(b)(8)(i) is modified to be five years from the date that it is no longer considered by HUD to be part of the metropolitan city or urban county, rather than from the date that the subrecipient agreement expires.

### III. Other Matters

The Department finds that there is good cause to publish this rule as an interim rule, to be effective before the receipt of public comment, since the provisions of the rule are intended, in past instances, to ease program administration for affected grantees. In other instances, the rule makes conforming changes to the CDBG program regulations to reflect recent statutory amendments. While the rule will become effective 30 days after publication, the Department will take public comments received in response to the rule into account in developing a final rule at a later time.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, room 10276, 451 Seventh Street, SW., Washington, DC 20410.

This rule does not constitute a "major rule" as that term is defined in section 1(d) of the Executive Order on Federal Regulations issued on February 17, 1981. An analysis of the rule indicates that it will not (1) have an annual effect on the economy of \$100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3)

have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Secretary, in approving this rule for publication, has certified in accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act) that this rule does not have a significant economic impact on a substantial number of small entities. The rule is limited to changes in the CDBG program that affect local decision making concerning the expenditure of available funds for an array of authorized purposes. The impact on small entities if any, should be indirect and minor.

#### *Executive Order 12612, Federalism*

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that this rule does not have "federalism implications" because it does not have substantial direct effects on the States (including their political subdivisions), or on the distribution of power and responsibilities among the various levels of government. This rule carries out statutory directions concerning Federal controls on the use of block grant funds, and represents the minimum degree of interference with local government decision making consonant with the CDBG statute.

#### *Executive Order 12606, the Family*

The General Counsel, as the Designated Official under Executive Order 12606, the Family, has determined that this rule does not have potential significant impact on family formation, maintenance, and general well-being. Its subject matter affects only the expenditure, by grantees, of funds received under the block grant program and program income derived from those funds. Any effect on the family would be indirect and minor.

This rule was listed as item 1211 in the Department's Semiannual Agenda of Regulations published on April 27, 1992 (57 FR 16804, 16837), in accordance with Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program number is 14.218.

#### **List of Subjects in 24 CFR Part 570**

Administrative practice and procedure, American Samoa, Community development block grants, Grant programs—housing and community development, Grant programs—education, Guam, Lead poisoning, Loan programs—housing and community development, Low and

moderate income housing, Northern Mariana Islands, Pacific Islands Trust Territory, Puerto Rico, Reporting and record keeping requirements, Virgin Islands, Student aid.

Accordingly, part 570 of title 24 of the Code of Federal Regulations is amended as follows:

### **PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS**

#### **Subpart C—Eligible Activities**

1. The authority citation for part 570 is revised to read as follows:

Authority: 42 U.S.C. 5300–5320; 42 U.S.C. 3535(d).

2. In § 570.200, paragraph (f)(1)(ii) is revised to read as follows.

#### **§ 570.200 General policies.**

(f) \* \* \*

(1) \* \* \*

(ii) Through loans or grants under agreements with subrecipients, as defined at § 570.500(c); or

3. In § 570.201, paragraph (e) is revised and a new paragraph (n) is added, to read as follows:

#### **§ 570.201 Basic eligible activities.**

(e) *Public services.* Provision of public services (including labor, supplies, and materials) which are directed toward improving the community's public services and facilities, including but not limited to those concerned with employment, crime prevention, child care, health, drug abuse, education, fair housing counseling, energy conservation, welfare, or recreational needs. To be eligible for CDBG assistance, a public service must be either a new service, or a quantifiable increase in the level of an existing service above that which has been provided by or on behalf of the unit of general local government (through funds raised by the unit, or received by the unit from the State in which it is located) in the twelve calendar months before the submission of the statement. (An exception to this requirement may be made if HUD determines that any decrease in the level of a service was the result of events not within the control of the unit of general local government.) The amount of CDBG funds used for public services shall not exceed paragraphs (e) (1) or (2) of this section, as applicable:

(1) The amount of CDBG funds used for public services shall not exceed 15 percent of each grant, except that for



entitlement grants made under subpart D of this part, the amount shall not exceed 15 percent of the grant plus 15 percent of program income, as defined in § 570.500(a). For entitlement grants under subpart D of this part, compliance is based on limiting the amount of CDBG funds obligated for public service activities in each program year to an amount no greater than 15 percent of the entitlement grant made for that program year plus 15 percent of the program income received during the grantee's immediately preceding program year.

(2) A recipient which obligated more CDBG funds for public services than 15 percent of its grant funded from Federal fiscal year 1982 or 1983 appropriations (excluding program income and any assistance received under Public Law 98-8), may obligate more CDBG funds than allowable under paragraph (e)(1) of this section, so long as the total amount obligated in any program year does not exceed:

- (i) For an entitlement grantee, 15% of the program income it received during the preceding program year; plus
- (ii) a portion of the grant received for the program year which is the highest of the following amounts:

(A) The amount determined by applying the percentage of the grant it obligated for public services in the 1982 program year against the grant for its current program year;

(B) The amount determined by applying the percentage of the grant it obligated for public services in the 1983 program year against the grant for its current program year;

(C) The amount of funds it obligated for public services in the 1982 program year; or,

(D) The amount of funds it obligated for public services in the 1983 program year.

(n) *Homeownership assistance.* During the period from November 28, 1990 to September 30, 1992, CDBG funds may be used to provide direct homeownership assistance among low- and moderate-income persons to—

(1) Subsidize interest rates and mortgage principal amounts for low- and moderate-income homebuyers;

(2) Finance the acquisition, by low- and moderate-income homebuyers, of housing that is occupied by the homebuyers;

(3) Acquire guarantees for mortgage financing obtained by low- and moderate-income homebuyers from private lenders (except that CDBG funds may not be used to guarantee such mortgage financing directly, and

grantees may not provide such guarantees directly);

(4) Provide up to 50 percent of any downpayment required from a low- or moderate-income homebuyer; or

(5) Pay reasonable closing costs (normally associated with the purchase of a home) incurred by a low- or moderate-income homebuyer.

#### Subpart J—Grant Administration

4. In § 570.500, paragraph (a)(1)(v) and the first sentence of paragraph (c) is revised, and a new paragraph (a)(3) is added, to read as follows:

##### § 570.500 Definitions.

(a) \* \* \*

(1) \* \* \*

(v) Payments of principal and interest on loans made using CDBG funds, except as provided in paragraph (a)(3) of this section;

(3) The calculation of the amount of program income for the recipient's CDBG program as a whole (i.e., comprising activities carried out by a grantee and its subrecipients) shall exclude payments made by subrecipients of principal and/or interest on loans received from grantees where such payments are made from program income received by the subrecipient. (By making such payments, the subrecipient shall be deemed to have transferred program income to the grantee.) The amount of program income derived from this calculation shall be used for reporting purposes and in determining limitations on planning and administration and public services activities to be paid for with CDBG funds.

(c) *Subrecipient* means a public or private nonprofit agency, authority or organization, or an entity described in § 570.204(c), receiving funds from the recipient or another subrecipient to undertake activities eligible for assistance under subpart C of this part.

5. In § 570.501, paragraph (b) is amended by adding a phrase to the end of the last sentence, to read as follows:

##### § 570.501 Responsibility for grant administration.

(b) \* \* \*, except that the five-year period identified under § 570.503(b)(8)(i) shall begin with the date that the unit of general local government is no longer considered by HUD to be a part of the metropolitan city or urban county, as applicable, instead of the date that the subrecipient agreement expires.

6. In § 570.503, the introductory text in paragraph (b)(8) is amended by inserting the phrase "(including CDBG funds provided to the subrecipient in the form of a loan)" in the second sentence immediately after the words "CDBG funds", and paragraph (b)(8)(ii) is revised to read as follows:

##### § 570.503 Agreements with subrecipients.

(b) \* \* \*

(ii) Not used in accordance with paragraph (b)(8)(i) of this section, in which event the subrecipient shall pay to the recipient an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, or improvement to, the property. The payment is program income to the recipient. (No payment is required after the period of time specified in paragraph (b)(8)(i) of this section.)

#### Subpart K—Other Program Requirements

7. In § 570.611, paragraph (b) is revised to read as follows:

##### § 570.611 Conflict of interest.

(b) *Conflicts prohibited.* Except for the use of CDBG funds to pay salaries and other related administrative or personnel costs, the general rule is that no persons described in paragraph (c) of this section who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this part, or who are in a position to participate in a decision making process or to gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG assisted activity, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. For the UDAG program, the above-stated restriction shall apply to all activities that are a part of the UDAG project, and shall cover any financial interest or benefit during, or at any time after, the person's tenure.

Dated: May 8, 1992.

Randall Erben,

Acting Assistant Secretary for Community Planning and Development.

[FR Doc. 92-14148 Filed 6-16-92; 8:45 am]

BILLING CODE 4210-29-M



# **federal register**

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**Wednesday  
June 17, 1992**

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## **Part IV**

### **Office of Management and Budget**

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**Cumulative Report on Rescissions and  
Deferrals; Notice**



**OFFICE OF MANAGEMENT AND BUDGET****Cumulative Report on Rescissions and Deferrals**

June 1, 1992.

This report is submitted in fulfillment of the requirement of section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93-344). Section 1014(e) requires a monthly report listing all budget authority for this fiscal year for which, as of the first day of the month, a special message has been transmitted to Congress.

This report gives the status, as of June 1, 1992, of 128 rescission proposals and 11 deferrals contained in the special messages for FY 1992. These messages

were transmitted to Congress on September 30, and December 19, 1991, and on February 19, March 10, March 20, April 8, and April 9, 1992.

**Rescissions (Table A and Attachment A)**

As of June 1, 1992, 128 rescission proposals totaling \$7,879.5 million were pending before Congress. Of the total amount proposed for rescission, \$2,199.9 is currently being withheld. Attachment A shows the history and status of each rescission proposed during FY 1992.

**Deferrals (Table B and Attachment B)**

As of June 1, 1992, \$3,039.3 million in budget authority was being deferred from obligation. Attachment B shows the history and status of each deferral reported during FY 1992.

**Information from Special Messages**

The special messages containing information on the rescission proposals and deferrals that are covered by this cumulative report are printed in the **Federal Registers** cited below:

56 FR 50620, Monday, October 7, 1991.

56 FR 67402, Monday, December 30, 1991.

57 FR 6644, Wednesday, February 26, 1992.

57 FR 11140, Wednesday, April 1, 1992.

57 FR 11528, Friday, April 3, 1992.

57 FR 13151, Wednesday, April 15, 1992.

57 FR 13779, Friday, April 17, 1992.

Richard Darman,  
*Director.*

BILLING CODE 3110-01-M



TABLE A

## STATUS OF FY 1992 RESCISSIONS

	Amounts (In millions of dollars)
Rescissions proposed by the President.....	7,879.5
Rescission proposals rejected by the Congress.....	---
Rescission proposals for which funding was previously withheld and has been released.....	-5,654.5
Rescission proposals for which funding was not withheld.....	-25.0
Rescission proposals for which funding is currently being withheld.....	-2,199.9

TABLE B

## STATUS OF FY 1992 DEFERRALS

	Amounts (In millions of dollars)
Deferrals proposed by the President.....	5,631.1
Routine Executive releases through June 1, 1992 (OMB/Agency releases of \$3,725.2 million, partially offset by cumulative positive adjustments of \$1,133.4 million).....	-2,591.8
Overtaken by the Congress.....	---
Currently before the Congress.....	3,039.3

Attachments



**ATTACHMENT A**  
**Status of FY 1992 Rescission Proposals**  
 (Amounts in thousands of dollars)

As of June 1, 1992 Agency/Bureau/Account	Rescission Number	Amounts Pending		Date of Message	Amount Rescinded	Amount Previously Withheld and Made Available	Date Made Available	Congressional Action
		Less than 45 days	More than 45 days					
DEPARTMENT OF AGRICULTURE								
Cooperative State Research Service								
Building and facilities.....	R92-36	250		3-20-92		250	5-29-92	
	R92-37	500		3-20-92		500	5-29-92	
	R92-38	500		3-20-92		500	5-29-92	
	R92-39	2,710		3-20-92		2,710	5-29-92	
	R92-40	375		3-20-92		375	5-29-92	
	R92-41	3,050		3-20-92		3,050	5-29-92	
	R92-42	225		3-20-92		225	5-29-92	
	R92-43	225		3-20-92		225	5-29-92	
	R92-44	750		3-20-92		750	5-29-92	
	R92-45	94		3-20-92		94	5-29-92	
	R92-46	39		3-20-92		39	5-29-92	
	R92-47	387		3-20-92		387	5-29-92	
	R92-48	85		3-20-92		85	5-29-92	
	R92-49	49		3-20-92		49	5-29-92	
	R92-50	125		3-20-92		125	5-29-92	
	R92-51	185		3-20-92		185	5-29-92	
	R92-52	120		3-20-92		120	5-29-92	
	R92-53	134		3-20-92		134	5-29-92	
	R92-54	100		3-20-92		100	5-29-92	
	R92-55	46		3-20-92		46	5-29-92	
	R92-56	200		3-20-92		200	5-29-92	
	R92-57	250		3-20-92		250	5-29-92	
	R92-58	50		3-20-92		50	5-29-92	
	R92-59	187		3-20-92		187	5-29-92	
	R92-60	140		3-20-92		140	5-29-92	
	R92-61	76		3-20-92		76	5-29-92	
Extension Service								
Extension Service.....	R92-62	647		3-20-92		647	5-29-92	
	R92-63	150		3-20-92		150	5-29-92	



**ATTACHMENT A**  
**Status of FY 1992 Rescission Proposals**  
 (Amounts in thousands of dollars)

As of June 1, 1992 Agency/Bureau/Account	Rescission Number	Amounts Pending Before Congress		Date of Message	Amount Rescinded	Amount Previously Withheld and Made Available	Date Made Available	Congressional Action
		Less than 45 days	More than 45 days					
<b>National Agricultural Library</b>								
National Agricultural Library.....	R92-64		500	3-20-92		462 1/	5-29-92	
Animal and Plant Inspection Service								
Salaries and expenses.....	R92-35		100	3-20-92		100	5-29-92	
<b>DEPARTMENT OF COMMERCE</b>								
National Telecommunications and Information Administration								
Public telecommunications facilities, planning and construction.....	R92-2		21,425	3-10-92		21,425	5-11-92	
<b>DEPARTMENT OF DEFENSE</b>								
Operation and Maintenance								
Operation and maintenance, Army.....	R92-3		92,850	3-10-92		92,850	5-11-92	
Operation and maintenance, Navy.....	R92-4		104,650	3-10-92		104,650	5-11-92	
Operation and maintenance, Marine Corps.....	R92-5		22,000	3-10-92		22,000	5-11-92	
Operation and maintenance, Air Force.....	R92-6		4,500	3-10-92		4,500	5-11-92	
Operation and maintenance, Defense Agencies.....	R92-7		20,200	3-10-92		20,200	5-11-92	
Procurement								
Aircraft procurement, Army.....	R92-103	133,000		4-9-92				
Procurement of weapons and tracked combat vehicles, Army.....	R92-9		110,000	3-10-92		110,000	5-11-92	
	R92-104	225,000		4-9-92				
	R92-105	196,300		4-9-92				
	R92-106	17,600		4-9-92				
Procurement of ammunition, Army.....	R92-10		1,000	3-10-92		1,000	5-11-92	
Aircraft procurement, Navy.....	R92-11		262,000	3-10-92		262,000	5-11-92	

1/ Only \$462,000 was withheld from obligation.



**ATTACHMENT A**  
**Status of FY 1992 Rescission Proposals**  
 (Amounts in thousands of dollars)

As of June 1, 1992 Agency/Bureau/Account	Rescission Number	Amounts Pending Before Congress		Date of Message	Amount Rescinded	Amount Previously Withheld and Made Available	Date Made Available	Congressional Action
		Less than 45 days	More than 45 days					
Weapons procurement, Navy.....	R92-107	15,000		4-9-92				
	R92-108	8,000		4-9-92				
	R92-12		13,200	3-10-92		13,200	5-11-92	
	R92-109	130,000		4-9-92				
	R92-110	4,000		4-9-92				
Shipbuilding and conversion, Navy.....	R92-111	60,000		4-9-92				
	R92-13		238,100	3-10-92		238,100	5-11-92	
	R92-101		2,765,900	3-20-92		2,765,900	5-21-92	
	R92-14		41,300	3-10-92		41,300	5-11-92	
	R92-102		189,400	3-20-92		189,400	5-21-92	
Other procurement, Navy.....	R92-112	10,000		4-9-92				
	R92-113	4,000		4-9-92				
	R92-114	2,000		4-9-92				
	R92-15		40,200	3-10-92		40,200	5-11-92	
	R92-115	6,500		4-9-92				
Procurement, Marine Corps.....	R92-16		154,800	3-10-92		154,800	5-11-92	
	R92-116	21,000		4-9-92				
	R92-117	799,300		4-9-92				
	R92-118	67,000		4-9-92				
	R92-119	9,300		4-9-92				
Procurement, Defense Agencies.....	R92-120	45,000		4-9-92				
	R92-121	15,000		4-9-92				
	R92-122	20,000		4-9-92				
	R92-123	60,000		4-9-92				
	R92-124	15,000		4-9-92				
evaluation, Army.....	R92-18		102,200	3-10-92		102,200	5-11-92	
	R92-125	4,000		4-9-92				
Research, development, test, and evaluation, Navy.....	R92-19		140,600	3-10-92		140,600	5-11-92	
	R92-20		127,100	3-10-92		127,100	5-11-92	
	R92-21		375,900	3-10-92		375,900	5-11-92	



**ATTACHMENT A**  
**Status of FY 1992 Rescission Proposals**  
 (Amounts in thousands of dollars)

As of June 1, 1992 Agency/Bureau/Account	Rescission Number	Amounts Pending Before Congress		Date of Message	Amount Rescinded	Amount Previously Withheld and Made Available	Date Made Available	Congressional Action
		Less than 45 days	More than 45 days					
Research, development, test, and evaluation, Defense Agencies.....	R92-126	3,000		4-9-92				
	R92-127	248,800		4-9-92				
	R92-128	5,000		4-9-92				
	R92-129	6,000		4-9-92				
	R92-130	70,000		4-9-92				
Military Construction	R92-22		9,050	3-10-92		9,050	5-11-92	
	R92-23		17,400	3-10-92		17,400	5-11-92	
	R92-24		6,000	3-10-92		6,000	5-11-92	
	R92-25		48,000	3-10-92		48,000	5-11-92	
	R92-26		16,565	3-10-92		16,565	5-11-92	
	R92-27		306	3-10-92		306	5-11-92	
	R92-28		2,749	3-10-92		2,749	5-11-92	
	R92-29		36,000	3-10-92		36,000	5-11-92	
DEPARTMENT OF DEFENSE-CMIL								
Corps of Engineers								
Construction, general.....	R92-91		3,000	3-20-92		3,000	5-21-92	
	R92-92		1,350	3-20-92		1,350	5-21-92	
Operation and maintenance, general.....								
DEPARTMENT OF ENERGY								
Energy Programs								
Fossil energy research and development.....	R92-34	145		4-8-92				



**ATTACHMENT A**  
**Status of FY 1992 Rescission Proposals**  
 (Amounts in thousands of dollars)

As of June 1, 1992 Agency/Bureau/Account	Rescission Number	Amounts Pending Before Congress		Date of Message	Amount Rescinded	Amount Previously Withheld and Made Available	Date Made Available	Congressional Action
		Less than 45 days	More than 45 days					
DEPARTMENT OF HEALTH AND HUMAN SERVICES								
Health Resources and Services Administration								
Health resources and services.....	R92-30		25,000 2/	3-10-92				
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT								
Housing Programs								
Annual contributions for assisted housing.....	R92-65	547,659		3-20-92		547,659	5-21-92	
	R92-66	1,500		3-20-92		1,500	5-21-92	
	R92-67	1,000		3-20-92		1,000	5-21-92	
	R92-68	2,000		3-20-92		2,000	5-21-92	
	R92-69	150		3-20-92		150	5-21-92	
	R92-70	100		3-20-92		100	5-21-92	
	R92-71	1,200		3-20-92		1,200	5-21-92	
	R92-72	1,000		3-20-92		1,000	5-21-92	
	R92-73	1,300		3-20-92		1,300	5-21-92	
	R92-74	3,900		3-20-92		3,900	5-21-92	
	R92-75	2,500		3-20-92		2,500	5-21-92	
	R92-76	1,500		3-20-92		1,500	5-21-92	
	R92-77	500		3-20-92		500	5-21-92	
	R92-78	1,000		3-20-92		1,000	5-21-92	
	R92-79	1,000		3-20-92		1,000	5-21-92	
	R92-80	505		3-20-92		505	5-21-92	
	R92-81	65		3-20-92		65	5-21-92	
	R92-82	101		3-20-92		101	5-21-92	

2/ Funding was never withheld.



**ATTACHMENT A**  
**Status of FY 1992 Rescission Proposals**  
 (Amounts in thousands of dollars)

As of June 1, 1992 Agency/Bureau/Account	Rescission Number	Amounts Pending Before Congress		Date of Message	Amount Rescinded	Amount Previously Withheld and Made Available	Date Made Available	Congressional Action
		Less than 45 days	More than 45 days					
	R92-83		1,500	3-20-92		1,500	5-21-92	
	R92-84		700	3-20-92		700	5-21-92	
	R92-85		1,000	3-20-92		1,000	5-21-92	
	R92-86		800	3-20-92		800	5-21-92	
	R92-1		16,700	2-19-92		16,700	4-6-92	
	R92-31		25,000	3-10-92		25,000	5-11-92	
	R92-87		400	3-20-92		400	5-21-92	
<b>DEPARTMENT OF THE INTERIOR</b>								
National Park Service								
Construction.....	R92-89		7,700	3-20-92		7,700	5-21-92	
Operation of the national park system.....	R92-90		1,975	3-20-92		1,975	5-21-92	
Bureau of Indian Affairs								
Operation of Indian programs.....	R92-32		5,880	3-10-92		5,880	5-11-92	
Construction.....	R92-88		8,593	3-20-92		8,593	5-21-92	
<b>DEPARTMENT OF TRANSPORTATION</b>								
Federal Railroad Administration								
Local rail freight assistance.....	R92-33		9,880	3-10-92		9,880	5-11-92	



**ATTACHMENT A**  
**Status of FY 1992 Rescission Proposals**  
 (Amounts in thousands of dollars)

As of June 1, 1992 Agency/Bureau/Account	Rescission Number	Amounts Pending Before Congress		Date of Message	Amount Rescinded	Amount Previously Withheld and Made Available	Date Made Available	Congressional Action
		Less than 45 days	More than 45 days					
ENVIRONMENTAL PROTECTION AGENCY								
Research and development.....	R92-98		116	3-20-92		116	5-21-92	
Abatement, control and compliance.....	R92-93		1,250	3-20-92		1,250	5-21-92	
	R92-94		390	3-20-92		390	5-21-92	
	R92-95		70	3-20-92		70	5-21-92	
	R92-96		1,450	3-20-92		1,450	5-21-92	
Buildings and facilities.....	R92-97		20,000	3-20-92		20,000	5-21-92	
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION								
Construction of facilities.....	R92-99		3,400	3-20-92		3,400	5-21-92	
Research and development.....	R92-100		750	3-20-92		750	5-21-92	
TOTAL RESCISSIONS.....		2,199,945	5,679,528		0	5,654,490		0



**ATTACHMENT B**  
**Status of FY 1992 Deferrals - As of June 1, 1992**  
 (Amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amounts Transmitted		Date of Message	Releases(-)		Amount Deferred as of 6-1-92
		Original Request	Subsequent Change (+)		Cumulative OMB/Agency	Congress- sional Action Required	
FUNDS APPROPRIATED TO THE PRESIDENT							
International Security Assistance Economic support fund.....	D92-1 D92-1A	244,777	1,623,312	09-30-91 12-19-91	1,508,249	1,108,866	1,468,706
Foreign military financing.....	D92-8	1,908,000		12-19-91	996,300		911,700
Agency for International Development International disaster assistance, Executive.....	D92-2 D92-2A	40,704	12,483	09-30-91 02-19-92	42,731		10,456
Demobilization and transition fund.....	D92-9	13,000		12-19-91			13,000
DEPARTMENT OF AGRICULTURE							
Forest Service							
Cooperative work.....	D92-3	482,378		09-30-91	135,434		346,944
Expenses, brush disposal.....	D92-10	101,006		12-19-91			101,006
Timber salvage sales.....	D92-11	131,549		02-19-92	7,000		124,549
DEPARTMENT OF DEFENSE - CIVIL							
Wildlife Conservation, Military Reservations							
Wildlife conservation, Defense.....	D92-4	1,416		09-30-91	93		1,324



**ATTACHMENT B**  
**Status of FY 1992 Deferrals - As of June 1, 1992**  
 (Amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amounts Transmitted		Date of Message	Releases(-)		Amount Deferred as of 6-1-92
		Original Request	Subsequent Change (+)		Cumulative OMB/Agency	Congressional Required Action	
DEPARTMENT OF HEALTH AND HUMAN SERVICES							
Social Security Administration Limitation on administrative expenses .....	D92-5	7,317		09-30-91			7,317
DEPARTMENT OF STATE							
Bureau for Refugee Programs United States emergency refugee and migration assistance fund, executive .....	D92-6 D92-6A	30,053	24,750	09-30-91 12-19-91	25,000	24,520	54,323
DEPARTMENT OF TRANSPORTATION							
Federal Aviation Administration Facilities and equipment (Airport and airway trust fund) .....	D92-7	1,010,375		09-30-91	1,010,375		0
TOTAL, DEFERRALS .....		3,970,575	1,660,545		3,725,182	1,133,386	3,039,324

[FR Doc. 92-14216 Filed 6-18-92; 8:45 am]

BILLING CODE 3110-01-C



# Executive Order Federal Register

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Wednesday  
June 17, 1992

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## Part V

## The President

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Memorandums of June 15—Actions  
Concerning the Generalized System of  
Preferences



Memorandum  
June 17, 1955

The following information was obtained from a review of the records of the Department of the Interior, Bureau of Land Management, regarding the proposed acquisition of land for the establishment of a national monument in the State of New Mexico.

San Y.

The President

Memorandum of June 15, 1955  
Concerning the Department of the Interior  
Department of the Interior



# Presidential Documents

Title 3—

Memorandum of June 15, 1992

The President

## Actions Concerning the Generalized System of Preferences

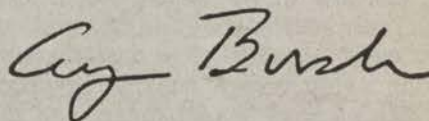
### Memorandum for the United States Trade Representative

Pursuant to section 504 of the 1974 Act, after considering various requests for a waiver of the application of section 504(c) of the 1974 Act (19 U.S.C. 2464(c)) with respect to certain eligible articles, I have determined that it is appropriate to modify the application of duty-free treatment under the Generalized System of Preferences (GSP) currently being afforded to certain articles and to certain beneficiary developing countries.

Specifically, pursuant to section 504(c)(3) of the 1974 Act (19 U.S.C. 2464(c)(3)), I have determined that it is appropriate to waive the application of section 504(c) of the 1974 Act with respect to Harmonized Tariff Schedule of the United States (HTS) subheading 2401.10.40 for Turkey. I have received the advice of the United States International Trade Commission on whether any industries in the United States are likely to be adversely affected by such waiver, and I have determined, based on that advice and on the considerations described in sections 501 and 502(c) of the 1974 Act (19 U.S.C. 2461 and 2462(c)), that such waiver is in the national economic interest of the United States.

Further, I have also determined, pursuant to section 504(d)(1) of the 1974 Act (19 U.S.C. 2464(d)(1)), that the limitation provided for in section 504(c)(1)(B) of the 1974 Act (19 U.S.C. 2464(c)(1)(B)) should not apply with respect to certain eligible articles because no like or directly competitive article was produced in the United States on January 3, 1985. Such articles are enumerated in the list below of HTS subheadings.

These determinations shall be published in the **Federal Register**.



THE WHITE HOUSE,  
Washington, June 15, 1992.



## ANNEX A

HTS subheadings for which no like or directly competitive article was produced in the United States on January 3, 1985

HTS  
Subheading

2401.10.40  
2904.10.04  
2907.15.30  
2908.20.08  
2908.20.15  
2914.61.00  
2922.30.14  
2925.20.15  
2926.90.17

[FR Doc 92-14419

Filed 6-15-92; 4:17 pm]

Billing code 3190-01-C



## Presidential Documents

Memorandum of June 15, 1992

### Actions Concerning the Generalized System of Preferences

#### Memorandum for the United States Trade Representative

Pursuant to sections 502(b)(4), 502(b)(7), and 502(c)(5) and section 504 of the Trade Act of 1974, as amended (the 1974 Act) (19 U.S.C. 2462(b)(4), 2462(b)(7), 2462(c)(5), and 2464), I am authorized to make determinations concerning the alleged expropriation without compensation by a beneficiary developing country, to make findings concerning whether steps have been taken or are being taken by certain beneficiary developing countries to afford internationally recognized worker rights to workers in such countries, to take into account in determining the Generalized System of Preferences (GSP) eligibility of a beneficiary developing country the extent to which certain beneficiary developing countries are providing adequate and effective means under its laws for foreign nationals to secure, to exercise, and to enforce exclusive rights in intellectual property, including patents, trademarks, and copyrights, and to modify the application of duty-free treatment under the GSP currently being afforded to such beneficiary developing countries as a result of my determinations.

Specifically, after considering a private sector request for a review concerning the alleged expropriation by Peru of property owned by a United States person allegedly without prompt, adequate, and effective compensation, without entering into good faith negotiations to provide such compensation or otherwise taking steps to discharge its obligations, and without submitting the expropriation claim to arbitration, I have decided to continue the review of the alleged expropriation by Peru.

Second, after considering various private sector requests for a review of whether or not certain beneficiary developing countries have taken or are taking steps to afford internationally recognized worker rights (as defined in section 502(a)(4) of the 1974 Act (19 U.S.C. 2462(a)(4)) to workers in such countries, and in accordance with section 502(b)(7) of the 1974 Act (19 U.S.C. 2462(b)(7)), I have determined that Bangladesh and Sri Lanka have taken or are taking steps to afford internationally recognized worker rights, and I have determined that Syria has not taken and is not taking steps to afford such internationally recognized rights. Therefore, I am notifying the Congress of my intention to suspend the GSP eligibility of Syria. Finally, I have determined to continue to review the status of such worker rights in El Salvador, Mauritania, Panama, and Thailand.

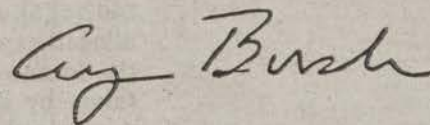
Third, after considering various private sector requests for a review of whether or not certain beneficiary developing countries are providing adequate and effective means under their laws for foreign nationals to secure, to exercise, and to enforce exclusive rights in intellectual property, including patents, trademarks, and copyrights, I have determined to continue the review of Guatemala and Malta.

Pursuant to section 504 of the 1974 Act, after considering various requests for a waiver of the application of section 504(c) of the 1974 Act (19 U.S.C. 2464(c)) with respect to certain eligible articles, I have determined that it is appropriate to modify the application of duty-free treatment under the GSP currently being afforded to certain articles and to certain beneficiary developing countries.



Specifically, pursuant to section 504(c)(3) of the 1974 Act (19 U.S.C. 2464(c)(3)), I have determined that it is appropriate to waive the application of section 504(c) of the 1974 Act with respect to certain eligible articles from certain beneficiary developing countries. I have received the advice of the United States International Trade Commission on whether any industries in the United States are likely to be adversely affected by such waivers, and I have determined, based on that advice and on the considerations described in sections 501 and 502(c) of the 1974 Act (19 U.S.C. 2461 and 2462(c)), that such waivers are in the national economic interest of the United States. The waivers of the application of section 504(c) of the 1974 Act apply to the eligible articles in the HTS subheadings and the beneficiary developing countries set opposite such HTS subheadings enumerated below.

These determinations shall be published in the Federal Register.



THE WHITE HOUSE,  
Washington, June 15, 1992.

Billing code 3190-01-M



## ANNEX A

HTS subheadings and countries granted  
waivers of section 504(c) of the 1974 Act

<u>HTS Subheading</u>	<u>Country</u>
2836.91.00	Chile
7113.19.10	Peru
7413.00.10	Peru
9502.10.40	Malaysia
9502.10.80	Malaysia

[FR Doc. 92-14428

Filed 6-16-92; 9:58 am]

Billing code 3190-01-C







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Wednesday, June 17, 1992

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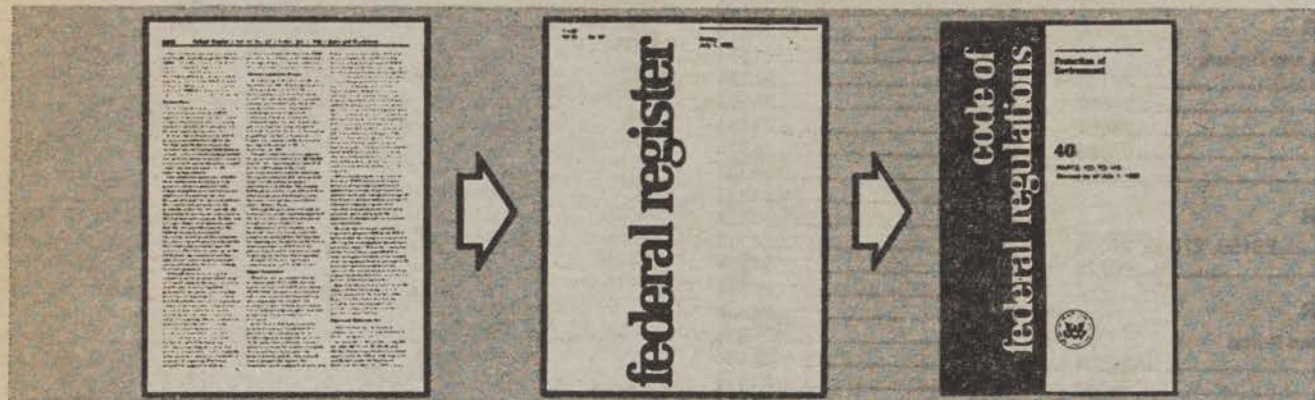
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